

Sullivan Zoning Board of Adjustment
Public Hearing
9/20/22

Present:

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

Public: Wendy Pelletier (Agent for the Applicants), Leslie Casey (Planning Board), Ann Sweet, Don Arguin (abutter)

- Rick called the public hearing on the Kirkpatrick property, located on South Road and owned by Lara and Scott Kirkpatrick, to order at 7:03 pm. This hearing is a continuance from the hearing of 8/30/22.
- Wendy sent the Board copies of the original septic system design plan, which Rick said indicated that they had gone down 36 inches without hitting ledge, which is good.
- The septic design person said that he couldn't use the tiny sliver of land the Board suggested because it would be cross slope, which the State wouldn't approve, that he couldn't design a backup system in that small space, and that it would cost \$1700 for a second design. Thus the original septic design still stands.
- Wendy did not supply the requested well easement document because she said it is beyond the Board's jurisdiction and it would cost ~\$5000 to get an attorney to draw it up. The well's protective radius does not conform to the requirements of the Sullivan CPO and the State of NH and though not the subject of the variance application, it was a continued point of discussion throughout the hearing.
- She also stated that the house could not be build in the back, which is largely wetlands, because you can't cross wetlands to build. The DES is very strict about letting driveways cross wetlands.
- Wendy restated that this lot was approved by the Planning Board and that they did not stipulate that it wasn't a building lot. They walked the lot. The clients bought it on good faith and they can't go to any more expense.
- Rick asked if they had a new plan that showed the 75 foot set back. Wendy replied that the septic system designer feels he can fit a system in. Wendy reiterated that he is a professional and stands by his design.
- Laura asked if the well is a shared well. Wendy replied that the clients have bought the well from John Bolles. Rick stated that if they put in a new well, they wouldn't have to deal with the 75 foot protective radius and may gain additional space for the septic system. Wendy replied that it would cost ~\$20,000 to move the well.
- Don Arguin asked if the building's proposed location was okay. The answer was yes, that it is just the septic system that is at issue.
- Roger asked why the Town had added 25 feet to the State's wetlands restriction. Rick said this happened in 2004 and that the Conservation Commission authored the Wetlands Conservation District Ordinance and that this was approved by a 2 to 1 majority in ballot voting before Town Meeting. Sullivan was among many other NH towns who thought the State's restriction was too little.
- Roger asked if we grant this variance, would it establish precedence? A discussion about wetlands ensued.
- Wendy stated that the 100 foot setback is too restrictive. Rick suggested splitting the difference and going for 80 feet instead of 100.

- Wendy pointed out that a variance on this case wouldn't set precedence because it is very lot specific and that another future lot might have alternatives for siting that this lot does not have, due to its extensive wetlands.
- Stephen asked if the 120 towns' voters knew what they were doing when they went from 75 feet to 100 feet. Rick pointed out that new and revised ordinances are subject to State prescribed newspaper and posted notices along with public hearings proceeding their appearance on the ballot.
- Rick stated in agreement with Bob that this lot isn't a major wetlands and that any septic output would not likely end up in the wetlands.
- Rick presented a 5 step worksheet for voting on the variance. Wendy read her answers to the 5 questions:
 - Denial will result in unnecessary hardship;
 - The variance will not decrease the value of surrounding properties;
 - Granting the variance will not alter the character of the neighborhood nor result in health and safety issues to the public;
 - The Community Planning Ordinance is not being violated;
 - The variance will do substantial justice.
- The Board then considered the 5 questions and voted on them as follows:
 - Granting the variance would not be contrary to the public interest: 5 Yes votes
 - The spirit of the ordinance would be observed: 3 Yes votes (Bob, Roger, Stephen) and 2 No votes (Rick, Laura)
 - Granting the variance would do substantial justice: 5 Yes votes
 - The values of surrounding properties would not be diminished: 5 Yes votes
 - Not granting the variance would result in unnecessary hardship: 5 Yes votes
- Roger stated that the precedence troubles him, that he would have liked a certified soils scientist to survey the property, that he doesn't like that the ordinance has been varied, and that the whole situation is unfortunate.
- As a result of the voting, the Board will grant the variance and allow for a 75 foot setback, with 50 feet for the house subject to conditions. Rick will send out an approval letter which will also stipulate that this ruling is not applicable to any other property, just this unique property.
- The meeting was closed at 8:10 pm on a motion from Roger, seconded by Bob.

Respectfully submitted,
BJ Wahl, Clerk