

PUBLIC HEARING AND BUSINESS MEETING

Call to Order - 7:00 PM: Chairman McDermott called the meeting to order.

Roll Call: R. McDermott, Chairman; P. Young, Member; A. Dittami, Alternate Member;
L. Ruest, Secretary; T. Pare, Building Inspector/Code Enforcement Officer;
NOT PRESENT: C. Leto, Vice Chairman, P. Robart, J. Henebry, Member;
G. Fincke, Alternate Member

R. McDermott stated that the three members present represent a quorum and designated A. Dittami as a voting member for this meeting.

Review Of The Minutes Of The Previous Meeting (September)

These minutes will remain in draft form and be considered at the Board's next meeting when a full Board can be present.

Public Hearings:

- 1. Case #05-12:** Application from Susan J. Faretra/NH Soil Consultants, Inc. (owner, Joseph Melville) 1) variance to Article III, Section 3.8.1 to permit a structure within the 50 foot setback; b 2) variance to Article III, Section 8.4.1 to permit roadways and structures within the buffer (16 Marsh Lane, Map 9, Lot 6)

Susan Faretra of NH Soil Consultants and Joseph Melville were present. No abutters or members of the public were present. R. McDermott explained that the three members present represent a quorum and that any vote would have to be unanimous in order to be effective. Mr. Melville stated he understood that he could continue this hearing to a time when a full board is present, however, requested the Board proceed.

Susan Faretra referred the Board to the plans and photos submitted with the application and explained the need for two variances; one from the 100' wetland buffer requirement and the other from the sideline setback requirement. She explained that there are two septic tanks at present; one in each of these locations. Today's regulations do not allow placement of septic tanks within setbacks. Application will also be required to the Department of Environmental Services, to include the Subsurface Bureau, for the work needed to correct the failing system(s).

She provided a lengthy explanation of the current status of each septic tank as well as the limitations of the property. She noted that the house was built in 1850 and that the Melvilles have occupied it since April of 1957. She reviewed various options considered to include changing the plumbing, considering a collection tank and pumps, etc. These options were found not to be feasible given the age of the home.

S. Faretra reviewed the proposed septic system design. This system meets all other town requirements as well as state requirements. The need for two tanks is due to the way the plumbing is set up in the home.

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Discussion was opened to questions of the Board. A. Dittami asked if the applicant considered other ways in which to access the back of the house in order to place a tank outside of the setback areas in question. Concern with the disruption of the soil around the foundation or jack-hammering in a house this age was expressed.

Hearing no further comments of the Board, R. McDermott noted that there were no members of the public present and requested the applicant speak to the five criteria for granting a variance. S. Faretra reviewed the variance requirements as presented in the application adding information relating to the age of the home and age of the system(s); one being approximately 30 years old and the other in place at the time of purchase in 1957.

No further questions were heard from the Board. Health Officer T. Pare stated that something needs to be done before this matter becomes a health issue given that fact that there is periodic surfacing.

MOTION: To grant a variance to Article III, Section 3.8.1 to permit a structure within the 50 foot setback; as well as a variance to Article III, Section 8.4.1 to permit roadways and structures within the buffer (16 Marsh Lane, Map 9, Lot 6).

MOTION: P. Young
SECOND: A. Dittami

The Board reviewed the five criteria as follows:

1. No diminution in value of surrounding properties will be suffered.

- A properly working system is a plus.
- No effective change is being made to the property that anyone will see that will affect property values.

2. Granting the permit will not be contrary to the public interest.

- All that is being done is an improvement over the existing situation.
- Any time you take a system and upgrade it so that it has less impact to the environment is in the public interest.

3. Special conditions exist such that literal enforcement of the ordinance results in unnecessary hardship:

(B)-Boccia Case - applicants for 'area' variance(s) may establish unnecessary hardship by proof that:

(1) An area variance is needed to enable the applicant's proposed use of the property given the special conditions of the property.

- The home was built before zoning or regulations. There is no greater hardship of rendering a house uninhabitable of use. High water, low basement, current plumbing configuration are all hardships that qualify.

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(2) The benefit sought by the applicant cannot be achieved by some other method reasonably feasible for the applicant to pursue, other than an area variance.

- This matter has been addressed in the fact that the applicant sought other options through plumbers, etc.

4. Granting the permit would do substantial justice.

- It is agreed that to not have a working system is inappropriate. The system was built before zoning bylaws. The new bylaws make the system nonforming. To enforce these regulations on a house of this sort would not be just.

5. The use would not be contrary to the spirit of the ordinance.

- The applicant has done all he can to try to move the system to meet regulations. This proposal brings the property closer to current standards, better protecting the environment. This is in the spirit of the ordinance.

VOTE: Unanimous

Other Business: A. Dittami commended L. Ruest's efforts with respect to the preparation of the minutes of the September 2005 meeting.

Comments or Questions from the Floor: No comments or questions were heard at this time.

Adjournment

MOTION: To adjourn the meeting at 7:47 p.m.

MOTION: A. Dittami

SECOND: P. Young

UNANIMOUS

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