

**TOWN OF EAST KINGSTON, NEW HAMPSHIRE**  
**ZONING BOARD OF ADJUSTMENT MEETING MINUTES**  
April 29, 2004

AGENDA

7:00 **John Cormier** (2004-01)  
27 Cove Road  
MBL#2-1-7

**Members attending:** Chairman John V. Daly, David A. Ciardelli,  
**Alternate members:** Nathaniel B. Rowell, Edward A. Cardone, Catherine Belcher

**Absent:** Norman J. Freeman, Richard E. Cook

**Others attending:** Peter A. Riley representing John Cormier

Chairman Daly opened the meeting of the East Kingston Zoning Board of Adjustment at the East Kingston Town hall at 7:00PM to consider an application seeking a variance from the terms of Article VII Section D(6) asking that the terms be waived to permit construction of a single-family home with a Sanitary Disposal System constructed as described on a revised Sanitary Disposal Plan dated October 31, 2002. The proposed Sanitary Disposal System is less than 100 feet from standing water.

Mr. Peter A. Riley appeared representing the applicant, John Cormier. Mr. Robert Cormier was also in attendance on behalf of his father.

Mr. Daly noted that there are three alternates present and all would participate in the vote.

Mr. Riley stated, as background, the Cormiers purchased the property on Cove Road from the Logan's last year. At the time of the purchase, the applicant was provided a copy of a Sanitary Disposal System that had been red-stamped by the building inspector at the time. As a result of having that inspection approval by Ken Sheppard, they purchased the property. Subsequent to the purchase, they submitted the approved plan to the Department of Environmental Services for the State of New Hampshire and they received the approval for construction of that system from the State. Mr. Riley submitted the approval for inspection by the Board.

Mr. Riley also stated that at the time of the purchase the Cormier's received a Well Radius Release which was also submitted to the Department of Environmental Services by Mr. and Mrs. Logan.

Mr. Riley added that the application essentially seeks to have reapproval by the Town of a septic system design originally approved by the former building inspector.

Mr. Riley pointed out on the plan where a portion of Lot 21 was added to Lot 16 by the previous owners prior to purchase.

Mrs. Belcher asked Mr. Riley if he knew if this proposal had to be approved by the Shoreline Protection Act because it is close to the Powwow Pond. Mr. Riley stated the approval by the State was subject to adherence to the Shoreline Protection Act provisions.

Mrs. Belcher asked Mr. Riley if he knew why Mr. Sheppard approved the plan if it did not meet all the setbacks. Mr. Riley stated that he did not know why it was approved before, but that all he knew was that his clients received a red-stamped copy of the plan. Mr. Riley stated that if this variance is not granted, his clients will suffer a substantial loss.

Mr. Daly stated that on the plan the note states that the septic system must be operated within its designed capacity. Mr. Riley stated that the capacity and design data is referenced for a two-bedroom and the system is actually 1/3 larger than it needs to be. He added that because of the elevation there has to be a pump to elevate the waste water to the field. The placement of the field cannot occur in any other position than where it is proposed. It is as far away from the pond as possible.

Mrs. Belcher asked if a leeching field was the only proposed type of septic disposal system that can accommodate this piece of property without requiring a variance. She asked if a different type of system could be installed. Mr. Riley stated that this is the smallest possible field without having a holding tank. For a year-round home it is not practical to have a holding tank. He would not recommend purchasing a home with a holding tank. Mr. Riley said that there are other adjacent properties in the area that have systems much closer to the pond. He added that this case is unique because of the prior approval by the building inspector.

Mr. LeBlanc, 18 Cove Road, an abutter, stated that he thought his well was too close to the proposed septic disposal system. He stated that he had a new well installed last summer. Mr. Riley stated that all the wells are on the plan and they are outside the area. Mrs. Belcher stated that they are far enough away as far as the State is concerned being more than 75 feet away. Mr. Ciardelli asked Mr. LeBlanc if the plan reflects his new well. Mr. LeBlanc said it shows Mr. Joe LaFrenier's well, another abutter present. Mrs. LeBlanc said that their old well was underneath the house and the new well is in front of the house now.

Mr. Ciardelli read the note on the plan: "The town of East Kingston requires all septic designs be sized for 3 bedrooms. Although design data shows 3 bedroom loading, state approval is being sought for a 2 bedroom home only."

Mr. LeBlanc stated that his front yard flooded this year and asked how the plan would affect the run-off of water. Mr. Riley stated that road drain-off is not the responsibility of the applicant. Mr. Daly said that road drain-off is the responsibility of the town. Mr.

Mr. Daly asked if Mr. Riley could get Mr. Quintal to appear before the Board if the hearing were continued to another date. Mr. Riley stated that he had tried to have Mr. Quintal attend this hearing, but something came up.

Mr. LeBlanc asked the Board if the applicant is granted the variance and builds and there is run off water going to his house, where does he go to get help. Mr. Daly stated that it may be a civil matter because if the applicant causes a problem with Mr. LeBlanc's property without a drainage easement, then he may have to sue. He added that Mr. LeBlanc can always go to the Selectmen or the building inspector to make his concerns known. Mr. Daly stated that if the Board grants the variance, it only pertains to the setback of the pond. It does not address any other issue and they have to satisfy every other town requirement.

Mr. Riley stated that they are seeking a 14 foot variance and the basement of the home will provide an additional buffer. He added that the design is the smallest possible and the most efficient, up-to-date system.

Mr. Cardone asked Mr. LeBlanc to show him on the plan where his property is located. Mr. Ciardelli stated that it looked like the other wells depicted on the plan are closer than wherever Mr. LeBlanc's well might be located.

Mr. Kory Skalecki, building inspector, brought up a couple of points to clarify the situation. He stated that if there is a piece of land that does not meet the setbacks, he cannot issue a permit. He stated that the plan does not meet the 100 foot setback from the pond. He added that if someone else makes a mistake, he cannot make another mistake and say that it is okay. He stated that he would never have recommended moving the septic system to the road. Mr. Skalecki noted the system being set back from the water depending on the time of the year. The State looks at a median water level and the water is pretty consistent in that area because it is dam-operated body of water.

Mr. Skalecki also noted that it is in a flood zone, but it is not considered a flood hazard area because the water is controlled by a dam. In terms of the grandfather issues, he asked what was it grandfathered for in the 1940's or 1950's, was it seasonal. The majority of the houses there have been renovated from seasonal or are still seasonal. There is a question of whether there was an out-house there. It is required to meet the State minimum required setbacks. Mr. Skalecki said that the State says 75 feet from water, but in the RSA on page 230 it states that the town has the option to increase what the distances are and that is what the town did. Mr. Skalecki stated that he does not have a problem with whatever the Board decides and added that this is what he comes across all the time.

Mr. Skalecki stated that the issue of the house being in between the system and the pond, the house doesn't act as a buffer for the water.

Mr. Daly clarified that the only variance required is the distance from the water.

Mr. Robert Cormier, the applicant's son, introduced himself and stated that he wants to work with the neighbors and work out any problems the septic system might cause and he stated that he planned on being a good neighbor.

Mr. Daly closed the hearing.

Respectfully submitted,

Helen M. Lonek  
Recording Secretary