

**Town of East Kingston, New Hampshire
Zoning Board of Adjustment Meeting Minutes
September 14, 2006**

AGENDA

7:30 PM **John Rossop** **ZBA 2006-045**
45 Riverside Drive
Freemont, NH
(Kathleen and Richard Rose)
(MBL #02-01-32- 6 Cove Road, East Kingston)

Members Attending: Chairman John V. Daly, Vice Chairman David A. Ciardelli, Peter Riley.

Alternate Members: Catherine Belcher

Others Attending: Mr. John Rossop, applicant; Shari and Steve Ridlan, Barbara Devanna, and Michelle Plante, abutters

Mr. Daly opened the meeting of the East Kingston Zoning Board of Adjustment at the East Kingston Town Hall on September 14, 2006, at 7:36 PM to consider the application seeking variance from Article IX, Section H. – SEPTIC SYSTEM LEACH FIELD BOUNDARIES for construction of a leach field 10 feet from the property lines.

Mr. Daly addressed the attendees and explained the procedure of the public hearing for this variance.

Mr. Daly recognized the applicant, Mr. John Rossop, who stated he would represent himself, as it appeared his attorney would not be in attendance.

Mr. Rossop indicated that he had looked in the East Kingston Ordinance Book for anything referring to grandfathered lots and could not find any reference. He knew that his lot was exempt from certain restrictions as it was a non-conforming lot, and that his house plan met the Town's building setbacks. He was under the impression that his property was a "grandfathered" lot and as such, was exempt from the Town ordinances, which included the septic setback and therefore the State minimum setback would supercede the Town's. The Town ordinance for septic system setback is 20 feet and the State minimum is 10 feet.

Mrs. Belcher looked up the state statute, which explained the definition of a lot. It did not necessarily mean it was grandfathered from the Town ordinances and setbacks. Mr. Rossop's lot was considered a pre-existing, non-conforming lot.

As per NH Regulation 674:24.II – "Lot" means a parcel of land at least sufficient in size to meet the minimum requirements for use, coverage and area and to provide required yards and other open spaces. An undersize lot is permissible if it passes State standards for soil conditions and subsequently meets the requirements here and if in existence on the date of adoption of this ordinance."

Mr. Daly questioned the fact that the applicant had applied under Article IX, Section H since it appeared that he more properly needed to be applying under Article VII, Section D.6. Art. VII, Sec. D.6. states: "Septic system leach field boundaries shall be located more than 20 feet away from any property boundary, 100 feet from any surface water, 75 feet from existing or proposed private wells, and 125 feet away from existing or proposed community wells. Septic systems replacement for septic systems in existence prior to March 1999 shall be required to meet the States minimum required setbacks." This section actually sets forth the requirement.

It became apparent early in this hearing that Mr. Rossop had applied for his variance under a notation in the wrong Article number and as such, it would therefore be necessary for him to withdraw his application and reapply under the correct Article number before an actual hearing could be conducted.

Discussion ensued between Mr. Rossop and the Board members and it was ascertained that Mr. Rossop would need to reapply under Article VII, Section D.6. During this discussion, it was noted that several items were not included on the septic plan and that there was no site plan included in the application.

Mr. Daly pointed out that Mr. Rossop should seek variances for each of the items he would need at the same time to save him the cost and time of reapplying individually to the Zoning Board for each variance needed.

Mr. Rossop would need a plan that showed the lot size, road frontage, all the necessary setbacks including for the septic system, well radius, and the size of the lot next to his property. He would also need to make sure his proposed house met the Town's 800 square foot outside measurement for foundation.

It was ascertained that the proposed well radius encroached upon the property adjoining his and the Board felt it did not have the authority to approve a plan that would prevent that property owner from someday having a well. If Mr. Rossop were to apply as per the existing plan, he would need some sort of paperwork from the other landowner stating that he agreed that he knew he would not be able to have a well on his property. It also appeared that the distribution box for the septic system was well within the 75-foot radius.

Mr. Daly announced to the abutters present that the request for variance was being withdrawn and when it was reapplied for, it would be re-noticed and they would be notified of the new meeting date.

The meeting was adjourned at 9:35 PM.

Respectfully submitted,

Barbara White

Barbara White
Recording Secretary