

TOWN OF EAST KINGSTON, NEW HAMPSHIRE
ZONING BOARD OF ADJUSTMENT MEETING MINUTES

September 25, 1997

AGENDA

FILE

7:30 Raymond J. Quinn – Variance from Articles IV.D.6 (1997-05)

Members attending: Chairman John V. Daly, David Ciardelli, David Boudreau, Norman J. Freeman, Alternates Peter A. Riley and Charles F. Marden.

Absent: Edward Cardone.

Others attending: Building Inspector Glenn P. Clark, Mr. & Mrs. Raymond Quinn, and Dennis Quintal.

Chairman Daly designated Alternate Charles Marden to vote in the absence of Edward Cardone.

Raymond J. Quinn—Case # 97-05: Chairman Daly opened the public hearing for Raymond J. Quinn of 21 Clement Lane, MBL# 11-2-2 at 7:35 p.m. Mr. Quinn is requesting a variance from Article IV. D.6 of the East Kingston Zoning Ordinance.

IV.D.6: Septic system leach fields boundaries shall be located more than 20 feet from any property boundary and 100 feet from any surface water and 100 feet from any well.

The applicant proposes the replacement of an existing septic system.

It was acknowledged that Mr. Quinn was before the ZBA August 28, 1997 and was granted variances from Article VIII.E.3 and IV.D.6 conditional that the proposed two-bedroom septic system be upgraded to a three-bedroom system which will keep within the same measurements of the two-bedroom system and that the proposed house remain a two-bedroom house.

Mr. Quinn was back before the Board because one of the conditions could not be met.

Mr. Quinn stated that at the August 28th meeting, he was instructed to upgrade the already approved two-bedroom septic system with a three-bedroom plan and to keep the three-bedroom system within the two-bedroom system footprint.

He continued to say that at the August meeting, when this condition was imposed, he (Quinn) asked the Board if this could be done. It was stated "yes." Since that meeting he has been informed that the approved two-bedroom plan was in fact designed as small as possible by reason of the lot space limitation. Therefore it is physically impossible to place a three-bedroom system in the same footprint of the two-bedroom system.

Mr. Dennis Quintal confirmed Mr. Quinn's inability to meet the condition imposed and further added that the only way to increase the leach field was to add another row. The three-bedroom septic could not be moved closer to the property line as the leaching fill would overflow onto the abutter's property. Moving closer to the street to avoid further encroachment on the wetlands would result in leaching fill overflow into the street. The only direction to go would be towards the structure and wetlands.

He stated that the ten-foot structure setback requirement would still be intact, however, the new system would be seventy-five feet from Hydric "A" and seventy feet from Hydric "B". The town setbacks are one hundred feet from Hydric "A" and seventy-five feet from Hydric "B".

Mr. Quintal noted Board options being to grant a variance from the three-bedroom minimum septic system to allow the already town-approved two-bedroom design; or grant a variance from Article IV.D.6 to allow the three-bedroom system to be located closer than 100 feet from Hydric "A" soils.

Chairman Daly reiterated that the new three-bedroom septic design would be located seventy-five feet from surface water meeting the state setback.

At Mr. Riley's inquiry, Mr. Quintal stated that the town's setback for Hydric "A" is one hundred feet where the state's is seventy-five, and the town's setback for Hydric "B" is seventy-five feet where the state's is fifty. The proposed three-bedroom system is seventy-five feet from Hydric "A" and seventy feet from Hydric "B".

He further stated that the proposed three-bedroom system is a better system than the two-bedroom system. The two-bedroom system works, but the town's minimum requirement is a three-bedroom design.

Mr. Quinn added that in regards to Hydric "A" and "B" soils, the existing system is very close to the water. The proposed system will actually be farther away from the wetlands than the existing system.

Chairman Daly stated for the record that the five criteria addressed at the August 28th meeting would apply to this meeting as well. Those being:

1. The proposed use would not diminish surrounding property values because the proposed replacements will receive local and state approval and will enhance the value of the area.
2. Granting the variance would be of benefit to the public interest because any replacement of a septic system by upgrading the same to state standards as well as the construction of a stick-built home enhances the value of the community.
3. Denial of the variance would result in unnecessary hardship to the owner because of the following special circumstances of the property which distinguish it from other properties similarly zoned because the lot, due to its topography, shape and location to seasonal water/stream, prohibits the construction of either a septic system or the new dwelling outside of the setback area prescribed by the ordinance.
4. Granting the variance would do substantial justice because it would in fact be an injustice to the owner should the request be denied.
5. The use is not contrary to the spirit of the ordinance because the intent is to limit construction within a proscribed distance from Hydric "A" soils. The proposed construction will be within state parameters and it will not pose any danger to the community or the water supply.

MOTION: Mr. Boudreau motioned to grant the variance from Article IV.D.6 of the East Kingston Zoning Ordinance for the proposed three-bedroom septic system to be located at 21 Clement Lane, MBL# 11-2-2, subject to state and town approval. Mr. Freeman second.

It was noted that the condition of the proposed house remain a two bedroom house would remain.

The motion passed 4-0.

Chairman Daly stated that is was unfortunate Mr. Quinn was erroneously advised by the Board regarding whether or not a three-bedroom system could be placed in the footprint of a two-bedroom system. He offered Mr. Quinn a \$100 reimbursement towards his September 11th application fee. Mr. Quinn accepted. The reimbursement would come out of the ZBA miscellaneous fund.

August 28, 1997 Minutes: With no corrections or objections stated, the August 28, 1997 Zoning Board of Adjustment Minutes were accepted for the record.

With no further business the Board adjourned at 7:55 PM.

Respectfully submitted,

Catherine Belcher
Secretary

Minutes completed and on file September 29, 1997.