

TOWN OF EAST KINGSTON, NEW HAMPSHIRE
ZONING BOARD OF ADJUSTMENT MEETING MINUTES
October 23, 1997

FILE

AGENDA

7:30 Colleen Beane – Variance from Articles IV.D.6 & VIII.E.3

Members attending: Chairman John V. Daly, Edward A. Cardone and Alternate Charles F. Marden.

Absent: David Ciardelli, David C. Boudreau, Norman J. Freeman and Alternate Peter A. Riley.

Others attending: Jeffrey and Colleen Beane and Alexander Gammon PE.

Chairman Daly designated Alternate Charles Marden to participate in the voting process.

Colleen Beane—Case #97-06: Chairman Daly opened the public hearing for Colleen Beane of 32 Powwow River Road, MBL# 10-03-06 at 7:42 p.m. Mrs. Beane is requesting a variance from Articles IV.D.6 and VIII.E.3 of the East Kingston Zoning Ordinance.

IV.D.6: Septic system leach field 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.

VIII.E.3: Permanent facilities (septic systems, buildings, roads, driveways, etc.) shall be located no closer than one hundred (100) feet from Hydric "A" soils, or seventy-five (75) feet from Hydric "B" soils, with the exception of driveway or road crossings necessary to access the buildable land.

The applicant proposes the replacement of an existing septic system.

Chairman Daly advised the applicants (Mr. & Mrs. Beane) that under RSA 674:33, three votes are necessary to decide in favor of any matter before the board. Because only three members are present, a unanimous vote of the board would be necessary to grant the variance request. Since there is not a full board in attendance, the chairman may give the applicant the option of postponing the hearing until all (or more) members are present.

He further explained that should the applicant choose to proceed with the hearing, a three member board cannot be the grounds for a rehearing in the event the variance is denied.

Mr. & Mrs. Beane stated that they understood the options before them and elected to continue the meeting with board members as present.

Mr. Jeffrey Beane explained to the Board what prompted the necessity to replace his existing septic system. He stated that his septic backed up and upon investigating the cause, it was discovered that the leach field was no longer functioning. It was also discovered that the septic tank was too small in comparison to today's standards.

He continued to explain that he contacted Alexander Gammon a licensed septic system designer and professional engineer. Mr. Gammon designed a new system and designated a new location. Test pits were used to determine the new location.

Mr. Beane also stated that he intends to drill a new well within a few days.

Mr. Gammon stated that the new well would be 100 feet from the proposed septic where the existing system is 20 feet from the existing well.

Mr. Gammon presented a septic plan for the Board's review. Noted were the wetland areas, existing septic, existing well and proposed septic. Mr. Gammon pointed out how close the existing septic is to the wetlands and stated that this proximity is one of the reasons the leach field failed.

He continued to explain that in determining the new location for the new septic system, he scoped the entire property. At the top of a knoll located behind the house, he discovered the location of the wetland areas on the Beane property. Wet soils are located on both sides of the parcel. The proposed leach field is strategically located between the two wet soil areas meeting the state's setback requirements. He cannot, however, position the leach field to comply with the town's setbacks. The state setback is 75 feet from wetlands and the town's is 100 feet. The Beane's do not own enough land to meet the town setbacks.

Mr. Beane stated that he would like to position the new well next to the house keeping it 100 feet from the proposed septic. He's expecting the well to be drilled on Saturday.

Mr. Marden clarified that the Beane's septic proposal meets the state's setback requirements, but not the town's.

Mr. Gammon stated that the present well is approximately 76 feet from the proposed septic. This is keeping with the 20-foot boundary setback.

He continued to say that the over-riding factor to this application is that no land can be added to the lot to increase the distance necessary to comply with the town's ordinance.

Chairman Daly requested the applicants to address the five criteria necessary to satisfy the law.

Mr. Bean and Mr. Gammon addressed as follows:

1. The proposed use would not diminish surrounding property values because a modern septic system would upgrade the property. Rossi, Inc. put the existing system in about 20 years ago.
2. Granting the variance would be of benefit to the public interest because it would improve environmental protection. It would also eliminate the current septic system failure. It would increase the value of the property, which impacts the value of surrounding properties.
3. Granting the variance would result in unnecessary hardship to the owner because of the following special circumstances of the property that distinguishes it from other properties similarly zoned because there are no other options or locations for the septic replacement. The Beane's are fortunate to be able to meet the state's criteria. If the proposed plan were revised, depending on the location of the new well, the septic could be moved an additional 4 to 5 feet. Not a significant change. Mr. Beane added that he and his family would have to move out of their house if a variance was not granted.
4. Granting the variance would do substantial justice because it would allow the Beane's to occupy their home. The parcel has been an existing residence of record.
5. The use is not contrary to the spirit of the ordinance because the intent of the ordinance is to provide a buffer zone between the septic and the well. This has been accomplished within the confines of the lot dimensions.

Mr. Beane reiterated that there are no other options for a new system. The existing system cannot be fixed in its present location. It is 20 feet from the well and with children, water quality is a concern.

Mr. Gammon added that the system cannot be replaced "kind and place" as it is located in the flood plain. This is not a recommended procedure. This is a small nonconforming lot, and we are trying to do the best with the property as it exists.

Mr. Marden inquired of the Beane's intentions of the old well. Some people keep dug wells for garden purposes. His concern is the safety of the Beane children.

Mr. Beane stated that he will fill in the old well as he and his wife also have safety concerns regarding their children.

Mr. Gammon added that old wells that sit unused can go bad. This could pose a health threat to the children should they play and drink from its water.

MOTION: Mr. Marden motioned to approve the variance from Articles IV.D.6 and VIII.E.3 of the East Kingston Zoning Ordinance for MBL# 10-3-6, located at 32 Powwow River Road subject to state and town septic approval. Mr. Cardone second.

Chairman Daly reiterated that the Beane's must meet all other state and town requirements for the septic and well. The Beane's have also agreed to fill in the old well upon the completion of the new drilled well.

The motion passed 3-0.

Mr. Gammon stated that he would submit a new plan for the file showing the location of the new well.

September 25, 1997 Zoning Board of Adjustment Minutes: With no corrections or objections, the September 25, 1997 Zoning Board of Adjustment Minutes were approved for the record.

With no further business, the Board adjourned at 8:07 p.m.

Catherine Belcher
Secretary

Minutes completed and on file October 24, 1997.