



**Zoning Board of Adjustment
Town of Eaton
Evans Memorial Building
Eaton, NH 03832
603-447-2840**

August 27, 2018

The Zoning Board of Adjustment met on Monday, August 27, 2018 in the Town Hall. Present were Acting Chairman Carol Mayhofer, Robert Bridgham, Robert Malvesta, Heather McKendry and Steve Larson. The meeting was called to order at 7:09 pm.

Robert Malvesta made a motion, seconded by Robert Bridgham, to waive the reading and to adopt the Minutes of August 6, 2018 as amended. Motion unanimously carried.

Case # 201602 – George Diller – Appeal From Administrative Decision

Carol Mayhofer reconvened the Public Hearing and read a request from George Diller to recess the hearing until Monday, December 3, 2018. ***Carol Mayhofer made a motion, seconded by Robert Malvesta, to recess this Public Hearing at the request of the Applicant until 7:00 pm on December 3, 2018. Motion unanimously carried.***

Case # 201804 – Matthew Burke & James Thompson – Variance

At 7:15 pm Carol Mayhofer opened a Public Hearing on an application from Matthew Burke & James Thompson for a Variance to Article V, Sections C.4(b) and C.4(c) for property located at 217 Brownfield Road (U02-013). Carol Mayhofer read the public notice.

All notices required by statute had been posted, fees paid and abutters notified. There were no conflicts of interest. Carol Mayhofer read a letter of support from abutters Gwyneth Meeks & Gloria Vela.

Dale McConkey submitted new plans to the Board and explained that he resubmitted septic plans to the State showing the wetlands. Dale McConkey explained that the property contains poorly drained wetlands as delineated by Peter Cooperdock. Dale McConkey stated that due to the soil types, they will be placing a silt fence along the contour during construction. Dale McConkey gave an overview of the existing and proposed replacement system.

Paul Savchick noted that the proposed system is well designed and that the site is difficult but that the system is extremely close to the wetlands. Paul Savchick stated that this wetland area has a high water table and expressed concern for people downstream. Dale McConkey stated that he dug a test pit and found fine sandy loam and no water table.

1. Granting the variance would not be contrary to the public interest. Dale McConkey addressed this criteria and stated that the proposed system has been approved by NHDES. The Board found that the existing system is failed and a replacement system improves the protection of surrounding properties. Yes – 5 No – 0
2. The spirit of the ordinance would be observed. The Board found that a replacement system will protect the water source and that it is the best solution to a failed system. Steve Larson questioned whether the system could be looked at every three to five years to make sure it is functioning properly. Paul Savchick stated that it could be tested and that the new owners must be aware that the approval is for two bedrooms with no future expansions. Dale McConkey submitted information on the system and explained that pumping or testing every few years is a burden on the property owner. Yes – 5 No – 0
3. Granting the variance would do substantial justice. The Board determined that the surrounding water sheds and water sources would be protected by replacing a failed system. Yes – 5 No – 0
4. The values of the surrounding properties would not be diminished as a State-approved septic system will protect the surrounding properties and water sources. Yes – 5 No – 0
5. There is a fair and substantial relationship between the general public purpose and the specific application. The property is bordered by a brook and the proposed location of the replacement system is the only possible place. The proposed system will be installed in the same location as the existing system. Due to the wetlands, stream and slopes, there is no possible means of adhering to the required setbacks. Yes – 5 No – 0

The proposed use is reasonable because it is an existing residence and the failed septic system will be replaced in the same location with a state-of-the-art system. Yes – 5 No – 0

Steve Larson suggested adding a condition to the approval to require that the new system be inspected or pumped every five years. Steve Larson also suggested adding a condition that the number of bedrooms not be increased without updating the system. Dale McConkey stated that those conditions would put a hardship on the property owner and that the system is designed to not be pumped that frequently. Robert Bridgham stated that no expansion should be permitted that adds a strain to the septic system. Carol Mayhofer noted that the State approval is for two bedrooms and that additional bedrooms will not be permitted without further approvals. Steve Larson stated that there are notes on the septic system plan which indicates that the system must be maintained every two years and stated that the system affects more than just the one property. Dale McConkey stated that the Board cannot require inspections. Carol Mayhofer stated that the Zoning Ordinance can be amended to give authority to the Board to require inspections and that documents be submitted to the Town. Carol Mahofer polled the Board on the possible condition to the approval to require inspecting the system every five years (Yes – 1 No – 4).

Carol Mayhofer made a motion, seconded by Robert Malvesta, that based on the foregoing findings of fact, the Variance from Article V, Sections C.4(b) and (c) be granted subject to the condition that no further expansion and/or increase in the number of bedrooms is permitted without State and Town approval and a Building Permit. Motion unanimously carried.

Case # 201803 – Matthew Burke & James Thompson – Special Exception

Carol Mayhofer made a motion, seconded by Robert Bridgham, to close the application for a Special Exception without finding. Motion unanimously carried.

Robert Bridgham made a motion, seconded by Robert Malvesta, to adjourn the meeting. Motion unanimously carried. The meeting was adjourned at 8:38 pm.

Respectfully submitted

Lianne M. Boelzner

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