

**TOWN OF NEW HAMPTON  
ZONING BOARD OF ADJUSTMENT  
MEETING MINUTES  
TOWN OFFICES  
NEW HAMPTON, NH 03256**

October 7, 2015

**MEMBERS PRESENT** Regular members: Mr. Hofling, Mr. Tierney, Mr. Frazier, and Mr. Orvis  
Alternate members: Mr. Smith, and Ms. Karnis

**OTHERS PRESENT** Administrative Assistant Mrs. Vose

**CALL TO ORDER** Mr. Hofling called the meeting to order at 7:00 PM.

Mr. Hofling appointed Ms. Karnis to vote in place of Mrs. Erler.

**MINUTES** A motion was made by Mr. Tierney, seconded by Ms. Karnis, to accept the minutes of 7/1/15, as written. Vote was unanimous.

**PUBLIC HEARING** David Ames, Ames Associates, was present to represent the Baldovins.

*Edward & Debra  
Baldovin, 100 Seminole  
Avenue, Tax Map U-10,  
Lot 10, for a Variance,  
Article V, Section D, of the  
New Hampton Zoning  
Ordinance*

Mrs. Vose advised that the applicants, Edward and Debra Baldovin, have requested a Public Hearing in accordance with RSA 676:7, for a Variance under Article V, Section D, of the New Hampton Zoning Ordinance. The applicant's proposal is to construct a septic system within the 20-foot setback of the property line; the leach field being 8 feet from the front setback and the septic tank being 11 feet from the front setback. The property is located at 100 Seminole Avenue, Tax Map U-10, Lot #10, in the General Residential, Agricultural and Rural District and the Waukewan Watershed Overlay District.

Mrs. Vose advised that all abutters were notified but heard from none and there were no abutters or members of the public present.

Mr. Ames advised that he was aware of the fact he needed to supply a notarized document from the Baldovins stating he could act on their behalf for this application. The board asked him to proceed.

**The variance will not be contrary to the public interest;** the applicant advised that the current system is closer to the house than current rules allow and the new location maintains the more environmentally sensitive setbacks.

Mr. Orvis asked Mr. Ames to explain where the current system is, being in basically the same location. Mr. Ames advised that they will remove the old system. Ms. Karnis asked why they were replacing the system as it was not in failure and Mr. Ames explained that during review of a building permit application it was discovered that no Approval for Operation was obtained. He said that improvements are being made on a lakefront property, the state requires that any system older than 20 years old must have a septic system that can meet current guidelines. Mr. Ames explained that wells in the area further limit where this system can be located.

**The spirit of the ordinance is observed;** the applicant states that granting the variance would not alter the essential character of the neighborhood or threaten the public health, safety or welfare, and will be an improvement to the existing system.

Asked what the state setback is from structures, Mr. Ames advised it was 15' from the field, and 10' from the tank. He pointed out that the encroachment is to a right-of-way and not an abutter's property line. Ms. Karnis expressed concern with the distance to the road and whether road maintenance could impact the system and Mr. Ames advised it was about 20+' to the travel way.

**Substantial justice is done;** the applicant states that the system can be replaced with one that is more compliant with current state requirements, allowing for continued use of the property.

Ms. Karnis asked how the property owner would not be allowed to use the property if they could not replace the system and Mr. Ames explained that they could not perform the improvements and would have to install a holding tank at great expense to the property owner. Mr. Tierney asked if the state would require the Baldovins to replace the system if they did not make improvements to the house and Mr. Ames explained they would not unless it failed.

**The values of surrounding properties are not diminished;** the applicant states the new system would increase the value of the Baldovin's property, which would then increase the value of surrounding properties.

Ms. Karnis pointed out that surrounding property values would also be increased due to proposed building improvements to the property.

**Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship;** the applicant states the

variance would not negatively impact the abutters and would allow the improvements to be made to the home, without the use of the holding tank, which would reduce the value of the property and be an increased cost for the property owners.

Mr. Tierney pointed out that denying this variance would prevent the property owners from using it in the manner which they would like, causing a hardship. Ms. Karnis said the Baldovins can still use the property the way they have in years past, but agrees a new system that is more compliant can avoid potential for a failure that could negatively affect the lake, in the future. Mr. Hofling advised that the board has historically approved variances for septic systems as it improves an existing situation in the watershed.

**For purposes of this subparagraph, “unnecessary hardship” means that, owing to special conditions of the property that distinguish it from other properties in the area, no fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property** The applicant states there is no negative impact to abutters and the new system protects the environmentally sensitive setbacks to the lake, wells and structure’s foundation, rather than the right-of-way. He noted the road is uphill from the system.

**The proposed use is a reasonable one;** the applicant states there is no change in use.

Mr. Tierney asked the board if they felt a site meeting was needed and the board agreed it wasn’t necessary.

The board agreed the criterion was met.

Mr. Orvis made a motion, seconded by Mr. Tierney, to approve the variance with the following conditions:

1. Both owners of record must sign a notarized statement authorizing David Ames, Ames Associates to act on their behalf in presenting the application.
2. Both owners of record must sign Page 14 of the Application for Appeal to the Zoning Board of Adjustment.

The vote was unanimous.

## **OTHER BUSINESS**

Mr. Hofling advised that there would be a presentation given to the ZBA by the town’s attorney, to review zoning rules, procedures, etc. in November.

Mrs. Vose advised that Ms. Karnis had provided some case law relative to zoning and said any members that wished to obtain a copy, could.

Mr. Hofling advised the board that he does not want to serve as Chairman beginning in May 2016, and may want to be appointed as an alternate member.

**CORRESPONDENCE**

There was none.

**ADJOURNMENT**

Mr. Hofling made a motion, seconded by Mr. Frazier, to adjourn at 8:00 pm. Vote was unanimous.

Respectfully Submitted,

Pam Vose  
Secretary

DRAFT