

NOTTINGHAM ZONING BOARD OF ADJUSTMENT

May 21, 2019

1 **Approved:** August 20, 2019

2 **Members Present:** Bonnie Winona-MacKinnon, Chair; Teresa Bascom, vice-Chair; Terry Bonser;
3 Peter White; Realene Shippee-Rice

4 **Members Absent:** Kevin Bassett, Alternate (Excused as there was a full Board)

5 **Others Present:** JoAnna Arendarczyk, Land Use Clerk; Marjorie Starkey, Applicant; Dennis (DJ)
6 Fowler Jr. & Erika Fowler; Applicants; Chris Albert, Consultant

7 **Call to order:** 7:02pm

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9 **Public Hearing**

10 **Case 19-002-VA-** Application from Marjorie Starkey, requesting a Variance from Article II Section C(2)
11 of the Nottingham Zoning Ordinance, to permit a failed septic in a new location 6.1feet from the
12 property line on a non-conforming lot (.301 acres). The property is located at 19 Lakeview Drive in
13 Nottingham, NH and is identified as Tax Map 71 Lot 76.

14 Marjorie Starkey represented her case. She explained that she recently learned that her current septic
15 may last roughly ten (10) more years however signs of failure are already present. Ms. Starkey
16 explained the photos she submitted for the case and then reviewed the responses to the five criteria
17 outlined in the application (in file). Ms. Starkey noted an added benefit of the proposed location is
18 easier and safer access to the boat ramp used by herself and her neighbors.

19 The Board noted that the abutter who would be affected has submitted letter of consent (file).

20 **Public Comment Opened:** 7:21pm- No one came forward to speak

21 **Public Comments Closed:** 7:21pm

22 The Board reviewed the benefits to the proposed location-

- 23 • Soil conditions are better
- 24 • More depth before the ledge -therefore better drainage

25 Mrs. Bascom- expressed concern with approval with less than the state would allow. However Ms.
26 Starkey pointed out the current location could be reused but with more expense in the process of
27 removing all the material from the current site. The test pit for the proposed site was used from the
28 previous septic plan as well as the better soil conditions in the proposed location.

29 **Motion Made By:** Mr. White to approve Case #19-002-VA application from Marjorie Starkey,
30 requesting a Variance from Article II Section C(2) of the Nottingham Zoning Ordinance, to permit a
31 failed septic in a new location 6.1 feet from the property line on a non-conforming lot (.301 acres). The
32 property is located at 19 Lakeview Drive in Nottingham, NH and is identified as Tax Map 71 Lot 76.

33 **Seconded By:** Mr. Bonser

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	Criteria Summary	Board vote - was the Criteria met?
1.	Granting the variance would not be contrary to the public interest because: _	5-0-0
2.	If the Variance were granted, the spirit of the ordinance would be observed because:	5-0-0
3.	Granting the variance would do substantial justice because:	5-0-0
4.	If the variance is granted, the values of the surrounding properties would not be diminished because:	5-0-0
5.	Unnecessary Hardship <ul style="list-style-type: none"> a. Owing to special conditions of the property that distinguish it from other properties in the area, denial of the variance would result in unnecessary 	5-0-0

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	hardship because: i. 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 because: ii. The proposed use is a reasonable one because:	
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Vote: 5-0-0 Motion Passed

The applicant was advised that there is a 30 day appeal period.

Public Hearing Closed: 7:36pm

Public Hearing Opened: 7:37pm

Case 19-003-VA- Application from Dennis J. and Erika Fowler, requesting a Variance from Article II Section C(2) of the Nottingham Zoning Ordinance, to permit a single family home on a private road and a non-conforming lot. The property is located at 121 Highland Ave in Nottingham, NH and is identified as Tax Map 67 Lot 25.

Chris Albert from Jones & Beach Engineering represented the applicants who remained seated in the audience. Mr. Albert presented a history of the lot, a lot as part of a development known as Sunny Pines, and its legal access off Highland Road. A topographic survey of lot has been done as well as the Shoreline Protection Zone, tree count. The request is for a Variance due to the lack of frontage on a class V road or better. Mr. Albert submitted letters of support from abutters. No opposition has been received from any abutters (Land Use Clerk confirmed).

Mr. Albert read the five criteria from the application (in file).

It was noted that neighboring lots were not required variances as they were considered “grandfathered” at the time. This comment led to a discussion about the term “grandfathering” and that it is not recognized by the state or the Zoning Ordinance which we follow.

Mr. Fowler came forward to address the Board. He stated that he and his wife are owners of the lot and that the lot meets all state requirements as well as the Town setback requirements in regards to the 30K building envelope.

Public Comment Opened: 8:02pm- No one came forward to speak

Public Comment Closed: 8:02pm

Motion Made By: Mrs. Bascom to approve *Case 19-003-VA- Application from Dennis J. and Erika Fowler, requesting a Variance from Article II Section C(2) of the Nottingham Zoning Ordinance, to permit a single family home on a private road and a non-conforming lot. The property is located at 121 Highland Ave in Nottingham, NH and is identified as Tax Map 67 Lot 25.*

Seconded By: Mr. Bonser

	Criteria Summary	Board vote - was the Criteria met?
1.	Granting the variance would not be contrary to the public interest because: _	4-0-1
2.	If the Variance were granted, the spirit of the ordinance would be observed because:	4-0-1
3.	Granting the variance would do substantial justice because:	4-0-1
4.	If the variance is granted, the values of the surrounding properties would not be diminished because:	4-0-1
5.	Unnecessary Hardship	4-0-1

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	<p>b. Owing to special conditions of the property that distinguish it from other properties in the area, denial of the variance would result in unnecessary hardship because:</p> <p>i. 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 because:</p> <p>ii. The proposed use is a reasonable one because:</p>	
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Vote: 4-0-1 Motion Passed

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The applicant was advised that there is a 30 day appeal period.

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Public Hearing Closed: 8:05pm

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Staff/ Board Members Update

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Member Training/ Review- JoAnna Arendarczyk, Land Use Clerk presented a training to review some

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ZBA basics related to procedure and Website use.

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Minutes-

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April 16, 2019

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Motion Made By: Mrs. Bascom to approve minutes for April 16, 2019 as written and edited.

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Seconded By: Mr. Bonser

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Vote: 4-0-1 Motion Passed

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ADJOURNMENT

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Motion Made By: Mrs. Bascom

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Seconded By: Mr. Bonser

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Vote: 5-0-0 Motion Passed

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Adjourn at: 8:50pm

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For the Nottingham Zoning Board of Adjustment

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JoAnna Arendarczyk; Land Use Clerk

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