

## **Holliston Zoning Board of Appeals Meeting Minutes of July 8, 2021**

**Call to Order:** The Chairman called the meeting to order at 7:00 p.m. via Zoom. He read the following statement into the record: Pursuant to the Governor's June 16, 2021 Act relative to extending certain COVID-19 measures adopted during the state of emergency suspending certain provisions of the Open Meeting Law G.L. c 30A paragraph 20, the Zoning Board of Appeals will be using remote participation for this meeting. The audio of this meeting is being recorded and will be posted to the Town's webpage within 24 hours in accordance with keeping the public informed of actions during this meeting. I would ask that all participants remotely attending this meeting please state your name for identification purposes each time you speak throughout the meeting. At this time, a roll call attendance vote will be taken.

Chairman John Love - Present  
Jay Peabody - Absent  
Mark Bush- Present  
Elizabeth Dembitzer, Associate – Present

### **PUBLIC HEARING:**

#### **Continued Administrative Appeal**

##### **Meaghan Hammer, Tr., JMH Trust – 16 Pearl Street**

The Chairman re-opened the public hearing at 7:02 p.m. Applicant/owners Meaghan Hammer and Brian Cheever were present along with Neil Bingham, Esq., to continue the discussion which began on June 30, 2021 regarding the Building Inspector's denial of the issuance of an occupancy permit for the single family home. Also present was Town Counsel, Atty. Brian Winner.

Members noted that they had reviewed the administrative record and compared the plans as per their request on June 30, 2021. Atty. Bingham added that he would have encouraged his clients to appeal the former Inspector of Building's determination regarding the need for additional relief.

The Chairman opened the floor to the public. Speaking in favor of upholding the Building Commissioner's decision was Howard Stone of 969 Washington Street.

On a motion by Ms. Bush, seconded by Ms. Dembitzer, the hearing was closed on a unanimous roll call vote.

### **DELIBERATION:**

#### **Findings of Fact, Determinations and Conclusions**

Having reviewed the application, administrative record and testimony provided by the applicant and their representatives, the members concluded the following:

The 2018 Special Permit and Variance granted by this Board authorized the razing and reconstruction of the Dwelling at the Property. Those decisions make reference to and incorporate a plan entitled "Septic System Construction," dated July 30, 2018 and prepared by Civilized Solutions, Holliston, Massachusetts (the "Plan"). The Dwelling was, however,

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constructed 19 feet from the rear lot line. That three-foot discrepancy was the subject of the Petitioner's 2019 application to this Board for additional relief.

After a fair review of the evidence, including the various plans and applications of record, application materials and the language of the prior permits (the 2018 Special Permit and Variance), the members are not persuaded that the Building Commissioner made an incorrect decision in denying the Certificate of Occupancy. In fact, the Board concludes that the Building Commissioner's decision to deny the requested Certificate of Occupancy was a reasonable decision.

The Board recognizes the Petitioner's argument that the 2018 decisions make reference to a southwesterly lot line and requires that the Dwelling be no closer than eight feet from that lot line. The Petitioner, however, believes that this reference is to the rear lot line. The totality of the credible evidence suggests otherwise. In particular, the Petitioner's argument essentially relies upon a single reference in the 2018 decisions. Those decisions, however reference a specific plan. Those decisions were based upon applications for front yard and side yard relief, not rear yard relief. Additionally, those decisions state clearly that the building envelope shall not increase the nonconformity dimensionally, just volumetrically. If the Board were to interpret this as the Petitioner would have us, it would be tantamount to a finding that the Board meant to implicitly grant a three-foot rear yard set back deviation where none was applied for and where such relief would conflict with the approved plan.

Accordingly, there is sufficient evidence to warrant the conclusion that additional relief is required and the applicant has made an unreasonable reading of the prior decision(s) with regard to placement of the structure on the lot with regard to the rear lot line, and, therefore, the Building Commissioner was not in error in denying a Certificate of Occupancy.

The Board's vote to deny the Petitioner's Administrative Appeal application for property described and located at 16 Pearl Street was as follows on a motion by Mr. Bush , seconded by Ms. Dembitzer:

Mr. Love	Aye
Mr. Bush	Aye
Ms. Dembitzer	Aye

Note: Members agreed to circulate the final language of the decision to reflect their comments. The Findings printed above are excerpted from the decision.

**Adjournment:** The meeting adjourned at 8:15 p.m. on a motion made by Mr. Bush, seconded by Ms. Dembitzer with all in favor on a roll call vote. The next meeting was scheduled for August 11, 2021.

Respectfully submitted,

Karen Sherman, Town Planner

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