



BOARD of ADJUSTMENT
Town of Hollis
 Seven Monument Square
 Hollis, New Hampshire 03049
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Minutes of April 28, 2016

Meeting was held in the Community Room, Hollis Town Hall, and was called to order by Chairman Jim Belanger at 7:00 pm.

MEMBERS OF ZONING BOARD OF ADJUSTMENT: Jim Belanger, Chairman; Regular Members – Brian Major, Gerald Moore and Rick MacMillan; Alternate Members –David Gibson, Susan Durham, Drew Mason, Kat McGhee and Bill Moseley.

Belanger appointed Durham as a voting member for the cases tonight.

Belanger noted a change in the agenda. The election of officers will be conducted under other business at the end of the meeting.

Case 2016-004

The application of William Lesko, Jr., property owner, for a Special Exception to Section IX, General Provisions, Paragraph K, Accessory Dwelling Unit of the Zoning Ordinance to permit the construction of a 776 square foot Accessory Dwelling Unit, located at 241 Farley Road (Map 043, Lot 068) in the Residential Agricultural Zone.

Chris Cahill, Cahill Construction, presented Case 2016-004 on behalf of the applicant. The proposal is to construct a 776 square foot Accessory Dwelling Unit (ADU) attached to the back of the existing dwelling. The ADU was designed to meet all criteria of the Hollis Zoning Ordinance. The ADU will be constructed under the 800 square foot limitation. The ADU will have share an internal heated wall and will have an internal access to the primary dwelling. A new septic plan has been submitted and approved by the Town to accommodate the additional bedroom and the proposed construction meets or exceeds all current setback requirements.

Durham asked will the second floor be used for the ADU. Cahill replied no, the area is not heated and will be used for storage. Referring to the plans submitted, MacMillan questioned what the room in the section noted “main house” was to be used for. Cahill replied a living room for the main house. Major asked what the room adjacent to the “main house” will be used for. Cahill replied a den for the ADU. Major voiced his concern that since there was a doorway from the ADU den and the main house living room, that room could be used for the ADU at a future time. If you included the room with the ADU, the ADU would be over the 800 square foot limitation. Moore asked what was the total heated living area including the ADU. Cahill replied approximately 3,000 square feet. Belanger asked if the house would look like a single family home from the road. Cahill replied yes all of the construction will be towards the back of the home and not visible from the road. Belanger asked could the ADU be easily reincorporated into the primary home if the ADU was not needed. Cahill replied yes.

Spoke in Favor of the application

Heath Dube, 137 South Merrimack Road

Dube stated his two concerns that the construction complies with the current setback and requirements and there would be no added noise to the area. Belanger stated the applicant needs to comply with the setback requirements. That is the only way he can obtain a building permit.

Nancy Struckman, 242 Farley Road

Struckman stated in her opinion the proposed construction could not be seen from the road. Struckman stated she has no problems with the application and hopes the Zoning Board of Adjustments approves the application.

No Further Questions from the Board and none from the floor – hearing portion of the case closed.

Case 2016-005

The application of Andrei Glebov, property owner, for a Special Exception to Section IX, General Provisions, Paragraph K, Accessory Dwelling Unit of the Zoning Ordinance to permit the construction of a 786 square foot

Accessory Dwelling Unit, located at 168 Witches Spring Road (Map 047, Lot 042) in the Residential Agricultural Zone.

Glebov explained he is currently in the process of renovating the existing home and he would like to construct a 786 square foot ADU above the garage. The ADU will be used by his Mother-in-law when she is visiting from Russia. A septic plan has been designed, submitted and approved by the Town to accommodate the additional bedroom. The home will look like a single family home from the road and the ADU can easily be reincorporated into the primary dwelling when or if the ADU is not needed.

Major asked what the total heated living area was of the home including the ADU. Glebov replied 4,000 square feet after the 786 square foot ADU is completed the primary dwelling will have approximately 3,100 square feet of heated living space remaining. MacMillan asked how the ADU would be accessed from the primary dwelling. Glebov replied the existing mudroom behind the garage will be the access point. MacMillan asked if the mudroom was heated. Glebov replied yes. MacMillan noted one of the requirements for an ADU is that an access must be present from the ADU to the primary dwelling through a common heated wall. The access from the existing mudroom would not meet the ordinance requirement. Belanger asked if the applicant could install a doorway from the second floor bedroom to the primary dwelling. Glebov replied yes a temporary access to the area has already been created while the construction is going on. That access can be made into a permanent doorway. Gibson stated he has no problem with the application as long as the door is installed. Moore noted the submitted plan states a “kitchenette” will be installed, if that is the case a special exception is not needed. Moore asked if a stove was going to be installed in the ADU. Glebov replied yes along with a refrigerator and cabinets. MacMillan stated as long as the doorway is added on the second floor to meet the zoning requirement, he is in favor of the application.

No Further Questions from the Board and none from the floor – hearing portion of the case closed.

Case 2016-006

The application of Joseph Shnayder, property owner, for a Variance to Section XII, Non Conforming Uses, Structures and Lots, Paragraph C, Non Conforming Structure of the Zoning Ordinance to permit the construction of a 169 square foot addition, 2 feet from the side property line, (required 35 feet) located at 108 Silver Lake Road (Map 062, Lot 003) in the Recreational Zone

Andrey Matvevv, 665 South Stark Highway, Weare NH presented Case 2016-005 on behalf of the applicant. Matvevv explained the property owner would like to re-build the existing utility room and add a second floor to be used for storage. The new utility room will be built on the existing foundation with a two foot overhang. Major noted the homes located on the lake are very close together and he has concerns that if the structure is built, it could inhibit the accessibility to the property for emergencies or maintenance of the property. Since the application request is a variance, the applicant must show a hardship. Major asked Matvevv what the hardship would be if the ZBA denies the application. Matvevv replied the house is small and the property owner would like to add the additional square footage to the home. The existing utility room needs to be re-built and it would be the perfect time to add a second floor.

Joseph Shnayder, property owner, approached the ZBA. Shnayder stated he owns and operates a jewel store in Nashua for the past 20 years. The additional area would be used for repairing jewelry. Belanger asked if the intention was to start a business in the home. Shnayder replied no. MacMillan asked if there was a heating system in the utility room. Shnayder replied yes. Belanger asked if the second floor would be only two feet wide, or would it be larger. Matvevv replied the additional room will be 22 feet long and 7 feet wide. Mason asked what the current side setbacks were. Matvevv stated the side setbacks are 4 feet on one side and 6 feet on the other. Major asked could the plans be re-configured so that the side setback would not be further aggravated. Matvevv replied no, if we did reconfigure the plans, the second floor room would not be wide enough to use. Belanger asked when was the house purchased. Shnayder replied 2003. Major asked what the total square footage of the home was. Mason looked on vision and stated total living area 1, 373 square feet with 1 ¾ stories. Shnayder asked if ZBA would consider approving the variance if the size was reduced to 1 or 1 ½ feet instead of the 2 foot side setback intrusions applied for. Belanger stated no matter if the size was reduced, the application would still be for a variance against the side setback.

No Further Questions from the Board and none from the floor – hearing portion of the case closed.

Case 2016-007

The application of Philip Sullivan, property owner, for a Variance to Section X,F.3c, Minimum Front Yard Depth and Section X,F3.d, Minimum Side Yard Depth of the Zoning Ordinance to permit the construction of a 15' x 20' car port 12 feet from the front property line (required 50feet) ,10 feet from the right property line and 22 feet from the left property line (both require 35 feet) located at 116 Silver Lake Rd, (Map 062, Lot 009) in the Recreational Zone.

Sullivan explained he purchased the home around 1 year ago and at the front of the property it had the remains of an existing approved carport that had been damaged by a storm. The submitted picture shows the original carport and the carport also is listed on my house's tax card. We have had significant damage to all of our cars from acorns. We would like to rebuild the carport, but also increase the width to 20 feet. We have cleared the area of all debris in preparation for the new carport. Once we cleared the area, I submitted a building permit and was denied. I was told the structure could not be rebuilt until a variance was granted by the ZBA. I feel the variance is warranted because the original carport was permitted and when I purchased the home, I was told the carport was legal. Within the application, you will see the original permit for your review. The new carport will be installed by a professional company and is designed to withstand the harsh New England weather. The abutting properties have carports or garages with the same setbacks from the side and front property lines. (See pictures supplied) The carport will actually be less intrusive than a fully enclosed garage. MacMillan asked what the size was of the original carport. Sullivan replied 10' x 18'. Major asked if the carport was gone prior to him purchasing the property. Sullivan replied yes, the only portion that was still there were the four pillars cemented in the ground. Major asked if the damaging trees could be taken down. Sullivan replied he was not sure. Mosley asked if the driveway was paved or gravel. Sullivan replied paved.

Belanger stated he recalls the original carport was granted a building permit because the owner was ill and needed the carport. Once the owner passed away, the carport needed to be removed. Unfortunately, the carport was never removed. Major asked if the structure was steel or canvas. Sullivan replied steel. Major asked what color is the carport. Sullivan stated the carport comes in several different colors, the color will match the existing home and will be appropriate for the area. MacMillan asked if the structure would have a foundation. Sullivan replied no, the structure will be anchored to the pavement. MacMillan asked why the carport needs to be twice the size previously approved. Sullivan replied he would like to have room for two cars, but will reduce the size if needed.

No Further Questions from the Board and none from the floor – hearing portion of the case closed

DELIBERATION AND DECISION

Case 2016-004

Discussion of the application of William Lesko, Jr., property owner, for a Special Exception to Section IX, General Provisions, Paragraph K, Accessory Dwelling Unit of the Zoning Ordinance to permit the construction of a 776 square foot Accessory Dwelling Unit, located at 241 Farley Road (Map 043, Lot 068) in the Residential Agricultural Zone.

Major stated he has no problem with the application. His initial concern was the "use" of the room adjacent to the ADU room marked main house. After the testimony he is satisfied that the "use: of the room is for the primary dwelling and not the ADU. The ZBA discussed the doorway and all agreed that the room would not be used for the ADU since the room was the family room for the primary dwelling.

MacMillan moved for a condition of approval;

- 1. The application was approved based on the floor plans submitted by the applicant for the Accessory Dwelling Unit.*

Seconded by Belanger.

Motion unanimously approved.

No Further Discussion.

Questions/Special Exception

- Question 1 Is the Exception specified in the Ordinance?
 Question 2 Are the specified conditions under which the Exception may be granted present?
 Question 3 Should the Exception be granted?

Board Member	Question #1	Question #2	Question #3	Total-Yes	Total-No
Jim Belanger	Yes	Yes	Yes	3	0
Brian Major	Yes	Yes	Yes	3	0
Gerald Moore	Yes	Yes	Yes	3	0
Rick MacMillan	Yes	Yes	Yes	3	0
Susan Durham	Yes	Yes	Yes	3	0

THEREFORE THE SPECIAL EXCEPTION WAS APPROVED WITH THE FOLLOWING CONDITION;

- 1. The application was approved based on the floor plans submitted by the applicant for the Accessory Dwelling Unit.**

Case 2016-005

Discussion of the application of Andrei Glebov, property owner, for a Special Exception to Section IX, General Provisions, Paragraph K, Accessory Dwelling Unit of the Zoning Ordinance to permit the construction of a 786 square foot Accessory Dwelling Unit, located at 168 Witches Spring Road (Map 047, Lot 042) in the Residential Agricultural Zone.

Belanger stated that the only issue with the ADU is an access point to the primary dwelling on a common heated wall. The applicant's testimony was the temporary access on the second floor to the primary dwelling could be a permanent doorway, which will meet the zoning requirements. Major stated the doorway from the mudroom on the first floor could be considered the common access point as well, but the square footage would have to be calculated as part of the ADU. Belanger noted the applicant has no problem with keeping an access point on the second floor to the primary dwelling. The ZBA members agreed.

Major moved for a condition of approval;

- 1. The applicant shall maintain /construct an access point on the second floor of the Accessory Dwelling Unit to the primary dwelling on a common heated wall.**

Seconded by Belanger.

Motion unanimously approved.

No Further Discussion.

Questions/Special Exception

- Question 1 Is the Exception specified in the Ordinance?
 Question 2 Are the specified conditions under which the Exception may be granted present?
 Question 3 Should the Exception be granted?

Board Member	Question #1	Question #2	Question #3	Total-Yes	Total-No
Jim Belanger	Yes	Yes	Yes	3	0
Brian Major	Yes	Yes	Yes	3	0
Gerald Moore	Yes	Yes	Yes	3	0
Rick MacMillan	Yes	Yes	Yes	3	0
Susan Durham	Yes	Yes	Yes	3	0

THEREFORE THE SPECIAL EXCEPTION WAS APPROVED WITH THE FOLLOWING CONDITION;

- 2. The applicant shall maintain /construct an access point on the second floor of the Accessory Dwelling Unit to the primary dwelling on a common heated wall.**

Case 2016-006

Discussion of the application of Joseph Shnayder, property owner, for a Variance to Section XII, Non Conforming

Uses, Structures and Lots, Paragraph C, Non Conforming Structure of the Zoning Ordinance to permit the construction of a 169 square foot addition, 2 feet from the side property line, (required 35 feet) located at 108 Silver Lake Road (Map 062, Lot 003) in the Recreational Zone.

MacMillan stated he is against granting the variance. Major agreed, stating he has concerns such as; area density, fire safety and the ability to access the property for routine maintenance. McGhee is also concerned that there would only be 2 feet between the houses. Moore stated a variance should be not granted on the basis of convenience, a hardship must be present. The application in his opinion, did not demonstrate a hardship. The ZBA members agreed.

No Further Discussion.

Questions - Variance

Question 1. The variance will not be contrary to the public interest

Question 2. The spirit of the ordinance is observed

Question 3. Substantial justice is done

Question 4. The values of surrounding properties are not diminished

Question 5a(1). 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

Question 5a(2). And, the proposed use is a reasonable one.

Board Member	Question #1	Question #2	Question #3	Question #4	Question #5a(1)	Question #5a(2)	Total Yes	Total No
Jim Belanger	No	No	No	Yes	No	No	1	4
Brian Major	No	No	No	Yes	No	No	1	4
Gerald Moore	No	No	No	Yes	No	No	1	4
Rick MacMillan	No	No	No	Yes	No	No	1	4
Susan Durham	No	No	No	Yes	No	No	1	4

THEREFORE THE VARIANCE WAS DENIED.

Case 2016-007

Discussion of the application of Philip Sullivan, property owner, for a Variance to Section X,F.3c, Minimum Front Yard Depth and Section X,F3.d, Minimum Side Yard Depth of the Zoning Ordinance to permit the construction of a 15' x 20' car port 12 feet from the front property line (required 50feet) ,10 feet from the right property line and 22 feet from the left property line (both require 35 feet) located at 116 Silver Lake Rd, (Map 062, Lot 009) in the Recreational Zone.

Mason stated the applicant is proposing a larger structure, not just the replacement of a structure that was there. MacMillan stated the original structure should have been taken down once the prior owner passed away. Belanger stated a variance request must prove a hardship this application in Belanger's opinion, does not. Major agreed and stated the property owner might be able to remove the trees. MacMillan stated that when he tried to remove a tree at his property near the water because of property damage, he was told he could not take the tree down because of shoreline protection. Durham stated there is a hardship because the property owner can only park his vehicles under the oak tree. The carport is only being used to protect his vehicles. Major stated that if evidence was presented that the trees could not be taken down the determination, of the ZBA might be different. Since there was no evidence presented, Major feels there is no hardship. Moore stated there was no evidence presented that this property is any different than the others in the area. The properties in the area all seem to have large trees that could potentially cause damage to vehicles. Moore stated the variance request is one of convenience not a hardship. Durham disagrees. Mason asked if the ZBA would consider a condition on the size of the carport. Belanger noted that a promise was made, that the carport would be removed once it was not being used by the previous owner. Gibson stated the ZBA should consider a hardship based on the property damage and that the trees may not be able to come down.

No Further Discussion.

Questions - Variance

- Question 1. The variance will not be contrary to the public interest
 Question 2. The spirit of the ordinance is observed
 Question 3. Substantial justice is done
 Question 4. The values of surrounding properties are not diminished
 Question 5a(1). 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
 Question 5a(2). And, the proposed use is a reasonable one.

Board Member	Question #1	Question #2	Question #3	Question #4	Question #5a(1)	Question #5a(2)	Total Yes	Total No
Jim Belanger	Yes	No	No	Yes	No	Yes	3	3
Brian Major	No	No	No	No	No	No	0	6
Gerald Moore	No	No	No	Yes	No	No	1	5
Rick MacMillan	No	No	No	Yes	No	No	1	5
Susan Durham	Yes	Yes	Yes	No	No	Yes	4	2

THEREFORE THE VARIANCE WAS DENIED.

Review of Minutes

Mason noted that line 138 should read “The ZBA members voted in favor on all 4 Findings of Facts unanimously”

Moore moves to approve the minutes of March 24, 2016 as amended.

Seconded by Belanger.

Motion unanimously approved with McMillan, Gibson, Mason and Mosley abstaining.

Other Business

Election of Officers

The elections of officers were conducted by a secret ballot vote and the results were as follows:

Cindy Tsao, Chairman

Gerald Moore, Vice Chairman

Meeting Adjourned

The ZBA meeting adjourned at 8:30 pm.

Respectfully submitted, Donna L. Setaro, Building & Land Use Coordinator