

EXETER ZONING BOARD OF ADJUSTMENT MAY 18, 2010 MEETING MINUTES

Present:

Chairman: Hank Ouimet
Vice Chairman: Marc Carbonneau.
Regular Members: John Hauschildt, Robert Prior.
Alternate Members: Martha Pennell.
Bldg. Inspector/Code Enforcement Officer: Doug Eastman
Deputy Code Enforcement Officer: Barbara McEvoy.

The meeting convened at 7:00 PM.

Agenda:

1. Case #1399: Variance request. 14 McKinley Street.
2. Case #1400: Variance and Special Exception request. 22-24 Jady Hill Avenue.

New Business:

1. Case #1399:

The application of Fletcher and Grace Rogers for a variance from Article 5, Section 5.1.2 for the expansion of a non-conforming use and Article 4, Section 4.3 Schedule II: Density and Dimensional Regulations to permit the proposed construction of a 24' x 24' garage with less than the required minimum side yard setback. The subject property is located at 14 McKinley Street, in the R-2, Single Family zoning district. Tax Map Parcel #74-103.

Chairman Ouimet opened the meeting by discussing protocol, introducing the members of the zoning board of adjustment and then invited the applicant to address the board.

Ms. Grace Rogers of 14 McKinley Street approached the board at this time. She stated that she wanted to replace the garage on their property for increased storage purposes.

Chairman Ouimet asked the applicant to address the criteria for variance. Mr. Rogers mentioned that Ms. Pennell had an opportunity to stop by the site before the hearing.

Ms. Rogers mentioned that the new garage would be no closer to the side yard line. She also stated that the garage may go further back to the rear of the property and that a majority of the expansion would be inward into the lot. It was mentioned that the garage will be higher than the existing. Regarding drainage, Ms. Fletcher mentioned that the water sheets into the lawn. She also stated that they were planning to add a small amount of paving at the entrance of the new structure.

Mr. Carbonneau asked if the applicant planned an expansion of the driveway. It was also mentioned that the plan needed to be more definitive for Code Enforcement Officer purposes and perhaps requiring as-built.

Mr. Hauschildt asked if problems with snow, rain and or drainage arise, how will the problems be resolved. Mr. Rogers stated that his lot actually collects water from the abutting property now and the site is bermed to direct water to the street.

At this time, the chairman opened the hearing to public comment. There was none. Chairman Ouimet closed the public hearing at this time.

DELIBERATIONS

Mr. Carbonneau commented that this was a straight-forward request.

Chairman Ouimet clarified that there would be a 10' side yard setback due to it being a non-conforming lot. He also stated that typically, there is a 15' side yard setback for R-2 and that this proposal would be a 5' encroachment.

Mr. Prior read through the criteria for variance at this time.

Mr. Carbonneau stated that it would be highly impractical to locate the garage in accordance with the existing lot layout and configuration.

**MOTION: Ms. Pennell moved to grant the variance request.
Mr. Hauschildt seconded.**

In discussion, Mr. Carbonneau mentioned that this proposal was for storage reasons and not for additional living space. It was also mentioned that the garage would be no closer than 5' to the side property line with latitude to move further to the rear of the lot, if necessary, at the Code Enforcement Officers 'discretion.

An amendment to the motion was made by Mr. Carbonneau. The amendment would be to modify the motion to include the language that the garage can be no closer than five (5) feet from the side property line. The board voted on the amendment to the motion and it passed unanimously.

The amended motion reads as follows:

**MOTION: Ms. Pennell moved to grant the variance request, subject to an amendment by Mr. Carbonneau, requiring that the garage be no closer than five (5) feet from the side property line.
Mr. Hauschildt seconded.
The amended motion passed unanimously.**

2. Case #1400:

The application of Christopher P. Mulligan, Esquire for a variance from Article 4, Section 4.2 Schedule I: Permitted Uses, Note 1 (b) to permit a residential conversion with less than the required minimum lot area/dwelling unit; and a special exception per Article 4, Section 4.2 Schedule I: Permitted Uses and Article 5, Section 5.2 to permit the residential conversion of an existing two-family dwelling into a three-family dwelling. The subject property is located at 22-24 Jady Hill Avenue, in the R-2, Single Family Residential zoning district. Tax Map Parcel #64-89.

Attorney Christopher Mulligan approached the board at this time and introduced himself as the representative for the property owner regarding this case. He stated that the applicant was seeking relief

to convert a two-family residence into a three family and he handed out additional copies of the application to the board members.

Attorney Mulligan stated that a variance was required for lot area and he began a discussion relative to criteria for variance. He stated that the owner, Mr. Randolph intends to occupy the 3rd unit and he mentioned that the natural features of the property will be maintained, the property is located in the R-5 zoning district and there is a multi-family zone across the street. Attorney Mulligan then mentioned that the character of the neighborhood will not be changed.

Continuing, Attorney Mulligan stated that the proposed dormer will create additional space in the attic unit (3rd unit) and that the addition is a reasonable use by special exception whereas it complies with everything except the lot area requirement. Additional discussion regarding lot area was completed and it was also mentioned that the right-of-way goes with the applicant's property.

Mr. Carbonneau asked if there was any room on the north side of the property for additional parking.

Mr. Ouimet asked if there was adequate room to pull out and backup to access.

Mr. Randolph mentioned that the lot can accommodate six vehicles.

Mr. Hauschildt stated that he had reviewed the parking regulations and found that there needs to be six parking spaces.

Mr. Prior mentioned that there will be an exterior stairwell to access the 3rd floor.

Mr. Ouimet mentioned that the property would be compliant in all other dimensional respects.

It was mentioned that the deed for the property includes the merger of two lots and a right-of-way. It was also mentioned that the property had not been surveyed.

Mr. Eastman stated that the right-of-way area did not show up on the tax map and should not be included in the total lot area.

Chairman Ouimet mentioned that parking is addressed specifically in special exception criteria and that the only required relief is for lot area.

At this time, the hearing was opened to public input.

Mr. Paul Scafidi of 26 Jady Hill Ave. explained the history of the subdivision and lots in the area. He stated that parking is an issue for that lot and that the property is too small to support an additional unit. Mr. Scafidi also mentioned that children play on his property and the Curran property.

Irene Curran approached the board at this time. She stated that there could be encroachment onto her property and the property is too small to support what is there now.

At this time, the chairman closed the public hearing.

DELIBERATIONS

It was mentioned that the area variance would be for 7,000 square feet (or 50%) relief and that the conversion would require that a unit be owner occupied.

Mr. Prior began a discussion regarding the criteria for variance. A discussion ensued regarding the intensity of the use and that the approval would run with the property. Mr. Prior then mentioned that although sympathetic to the owner, the ownership may change over the years and become even more intensified.

Mr. Carbonneau mentioned that a multi-family is compatible with the neighborhood and that an extreme amount of relief is being sought.

Mr. Hauschildt mentioned that there is no existing hardship.

Chairman Ouimet clarified that the general consensus of the board is that the applicant does not meet variance criteria #1 and #2.

Mr. Prior stated that there is a significant square footage difference.

**MOTION: Ms. Pennell made a motion to deny the variance request because the applicant does not meet variance criteria #1 and #2.
Mr. Hauschildt seconded.
The motion passed unanimously.**

Other Business:

1. Minutes: April 20, 2010

The following changes/revisions/amendments were discussed regarding the 4-20-10 minutes:

- A. Page 4: 6th paragraph, add "health care" after the word congregate.
- B. Page 7, Case #1397, a clarification should be added to paragraph 5: "clarify that this is a reversion and not treated as a conversion and that two families are allowed by special exception".
- C. Page 9, motion #2: strike last sentence. The vote on the motion was 4-1 in favor with Chairman Ouimet voting nay.

**MOTION: Mr. Carbonneau made a motion to approve the April 18, 2010 meeting minutes as amended.
Mr. Hauschildt seconded.
The motion passed 4-0. (Ms. Pennell abstained)**

2. Election of Officers:

Mr. Carbonneau stated that he was happy with the slate.

**MOTION: Mr. Prior made a motion that Mr. Ouimet remains Chairman, Mr. Carbonneau remains Vice-Chairman and Mr. Cole remains Clerk.
Mr. Hauschildt seconded.
The motion passed unanimously.**

3. Alternates needed/Channel 22:

The board discussed needing alternate members and a suggestion was made to contact the IT department to see if an “advertisement” scroll could run along the bottom of the televised ZBA meetings. The scroll could state that alternates were needed and to contact the Planning Office for details. The office staff would forward this request to Channel 22.

4. Office of Energy and Planning (OEP) Conference:

Mr. Hauschildt updated the board on a few items discussed at the annual conference. He mentioned that approvals run with land, other than handicapped and/or agricultural. He also mentioned that a new law relative to alternate members may be passed and involves alternates being able to participate in hearings and stepping down after public discussion.

MOTION: Mr. Hauschildt made a motion to adjourn.

Mr. Prior seconded.

The motion passed unanimously.

The meeting adjourned at 9:00PM.

The next meeting of the Exeter Zoning Board of Adjustment will be held Tuesday, June 15, 2010 at 7:00PM in the Novak Room at the Exeter Town Offices.

Respectfully Submitted,

Christine Szostak
Planning & Building PT Secretary