

EXETER ZONING BOARD OF ADJUSTMENT MARCH 15, 2011 MEETING MINUTES

Present:

Vice Chairman: Marc Carbonneau

Regular Members: Steve Cole, John Hauschildt, Robert Prior.

Alternate Members: Patrick Driscoll, Martha Pennell.

Code Enforcement Officer: Douglas Eastman.

Deputy Code Enforcement Officer: Barbara McEvoy.

(Ms. Pennell was seated in the audience. Mr. Driscoll was a voting member.)

The meeting convened at 7:04 PM.

Agenda:

1. Case #1413: Variance and Special Exception requests. 160 Kingston Road.
2. Case #1414: Appeal from an Administrative Decision. 89 Front Street.

New Business:

1: Case #1413:

The application of Sandra K. Anderson for a variance from Article 4, Section 4.2 Schedule I: Permitted Uses, Note #2.(a) and a special exception per Article 4, Section 4.2 Schedule I: Permitted Uses (Note 2) and Article 5, Section 5.2 to permit an existing "in-law" unit located at 160 Kingston Road to be converted to an accessory dwelling unit. The subject property is located in the R-1, Low Density Residential zoning district. Tax Map Parcel #115-1. Case #1413.

Ms. Anderson approached the board to begin her presentation. She explained that she purchased the home in August 2000, and it consisted of a residence with a new, detached three-car garage with a loft area above for storage. Subsequently in 2003, a building permit had been obtained for converting the garage into an in-law unit for her parents. She indicated that she had assumed that the unit could be used as an apartment after the in-laws (and or family members) no longer occupied it. She admitted that this was her error. Ms. Anderson then mentioned that she received a letter from Doug Eastman in January of 2011 indicating that her property was in violation and she immediately contacted him regarding the issue.

Continuing, Ms. Anderson stated that she applied for a special exception for the use (accessory dwelling unit) and a variance from the dimensional requirement for the lot area. She indicated that the square footage of the existing unit was 768 square feet, as noted in her application, but explained that the 6'x 8' mechanical room (i.e. water heater, furnace, etc) was also included in that area calculation. She noted that the actual living area of the unit was 720 square feet as set forth in the ordinance as the maximum permitted. She reiterated that the unit was separated from the main house and is served by its own septic and electrical service. She also noted that an 8'x 8' addition had been added to accommodate washer and dryer facilities, and was unheated, although increased the total square footage to 83 square feet.

Mr. Prior asked how much of a deficiency there was relative to the lot area. Ms. Anderson stated that the property is approximately 1.2 acres, which makes the deficiency approximately .8 acres, as she understood the minimum lot area requirement is two (2) acres. She also mentioned that the house was built in 1972 and the lot area was in compliance with the zoning regulations at that time.

There being no further questions from the Board, Vice Chairman Carbonneau opened the hearing to public testimony and there was none. He then closed the public hearing.

DELIBERATIONS

Vice Chairman Carbonneau mentioned that there were two applications before the board and that the board needed to address the criteria for both. He suggested starting with the variance request.

Mr. Hauschildt suggested discussing the square footage of the unit during the variance portion of the deliberations to provide clarity for the property owner as well as for any future owners of the property. He stated that it would be acceptable given the legal description of the application made reference to a variance "to permit" an accessory dwelling unit, and had not identified the specific relief necessary (lot area or square footage of the unit.). Mr. Eastman agreed noting that a second variance application would not be necessary.

Mr. Hauschildt began a discussion of the criteria for a variance with the board and it was determined that all of the criteria were satisfied.

MOTION: Mr. Hauschildt made a motion to approve the variance from Article 4.3, Schedule II: Density and Dimensional Regulations for the lot area (subsection 'a' of special exception criteria and from Article 4.2, Schedule I: Permitted Uses, Note #2 (e) for the unit square footage.
Mr. Prior seconded.
The motion passed unanimously.

At this time the board began deliberations regarding the special exception request. Mr. Hauschildt mentioned that unit and lot square footage issues (special exception criteria "a" and "e") were addressed when the board discussed the variance criteria. After reviewing the remaining criteria, it was determined that criteria "g" and "i" and "j" were not applicable to this application and the applicant met all of the other criteria.

Mr. Prior also reviewed the Accessory Dwelling Unit criteria, noting that one of the dwelling units must remain owner occupied. He reiterated that criteria (a) and (e) were satisfied with the granting of the variance. Mr. Prior confirmed with Building Inspector/CEO Doug Eastman that the septic design requirement had been satisfied prior to the "in-law" unit being occupied. He also noted that it would be necessary for the applicant to prepare a deed addendum outlining the terms of the approval granted for the accessory dwelling unit and shall be recorded in the Rockingham County Registry of Deeds prior to a certificate of occupancy is issued.

MOTION: Mr. Hauschildt made a motion to approve the special exception requests.
Mr. Cole seconded.
The motion passed unanimously.

2. Case #1414:

The application of Geoffrey Andrew von Kuhn for an Appeal from an Administrative Decision made by the Historic District Commission on February 17, 2011 regarding the proposed demolition of a structure located at 89 Front Street. The subject property is located in the R-2, Single Family Residential zoning district. Tax Map Parcel #73-301. Case #1414.

Mr. John Taylor, representative for the applicant, approached the board to present case #1414. He mentioned that there was no quorum at the January 20, 2011 HDC meeting although he was advised that he needed Heritage Commission approval prior to the HDC decision. He then applied for a demolition permit on January 21 to begin the Heritage Commission process. Mr. Taylor mentioned that the demolition review process was not completed in a timely manner by the Heritage Commission. He also stated that this was an appeal of the structural decision made by the HDC whereas the subject portion of the building is fairly modern and the HDC wants the structure to be put back and the applicant wants to leave it down. Mr. Taylor clarified that the owner wanted to leave it down because replacing it will restrict access to the back of the property and even a pickup truck will not be able to access the area. He also stated that he worked with the HDC through the entire process (14 items of discussion) and that this was the only problem.

Mr. Cole clarified that they were specifically discussing the covered archway/pass through structure.

At this time Mr. Taylor distributed photos circa 1935 of the property. Mr. Prior also presented photos of the property, showing the garage structure, which were obtained through the historical society. Mr. Prior commented that the house was built in the 1850's and asked if the barns were original. Mr. Taylor responded yes.

At this time, Vice Chairman Carbonneau opened the hearing to public testimony.

Mr. John Merkle, Chairman of the Heritage Commission, approached the board. He stated that the commission met the intent of the timeframe of the ordinance with a phone call and e-mail. He said the history of the site alone was basis for the decision for needing a thirty day time period. Mr. Merkle also mentioned that the property is known as the Amos Tuck house and has historical significance. He also mentioned the National Historic Registrar and stated that the Heritage Commission could not find any evidence of the subject structure (archway/connector) not being there.

Continuing, Mr. Merkle stated that the Demolition Review Committee and the Heritage Commission don't believe access is a justified argument for not replacing the subject structure. He also said the "connector" adds harmony and character to the two barns and that this element has been on the building as long as everyone can remember with no evidence being found that it did not exist.

Mr. Prior asked if the connector from the house to the barn in the rear was a possible servant's access.

Ms. Pam Gjetton, Chairwoman of the Historic District Commission approached the board at this time. She concurred with the points made by Mr. Merkle and mentioned that the archway was defining architecture and a very visible part of the home.

Mr. Taylor submitted rebuttal testimony at this time for board consideration.

At this time, the public session of the hearing was closed.

DELIBERATIONS

Vice Chairman Carbonneau summarized the process to date leading to the appeal for the board's consideration.

Mr. Hauschildt stated that visually, the building looks better without the connector but the HDC and Heritage Commission opinions and decisions are respected. He also stated that the board needs to review dialogue.

Vice Chairman Carbonneau stated that the ZBA normally stays out of specific land use board decisions. He then asked if it could be constructed in such a way that it could be easily removed or taken apart for equipment access. Mr. Carbonneau then stated that he visually liked both options, with and without the connector. He also stated that he likes the option to raise the structure to allow for access.

Mr. Prior stated that he noticed the removal immediately, and that it dramatically changed the appearance and that these connectors are a very strong part of New England Architecture. He also stated that he agrees with the HDC and Heritage Commission and support their decisions. Mr. Prior also stated that he hopes the applicant can find a way to introduce the visual appearance as it existed and could perhaps use creative construction. He stated depth not as important as the façade.

Mr. Driscoll stated that he agreed that there is historical significance with these structures and agreed with supporting the decisions made by the HDC and Heritage Commission.

Mr. Cole stated that he likes the idea of just façade construction for visual. He stated that the board needs to weigh functionality vs. historical significance.

Vice Chairman Carbonneau stated that the application included some minutes but new minutes were received by the board on March 14th and March 15th pertinent to this case and questioned if there were any substantial changes the board needed to be aware of.

At 8:35PM, the board took a five minute recess to review/read the minutes received 3/14 and 3/15. They reconvened at 8:40PM.

**MOTION: Mr. Prior made a motion to accept the draft minutes from the February 17, 2011 HDC meeting and the February 16, 2011 DRC meeting as part of the application.
The motion was seconded.
The motion passed unanimously.**

MOTION: Mr. Prior made a motion to deny the appeal and encourage the owner to work with the HDC and

**Heritage Commission to find a way to appropriately
replace the connectors on the buildings.
Mr. Hauschildt seconded.**

In discussion, the board agreed that creative solutions need to be explored further.

The motion passed unanimously.

Other Business:

1. The board acknowledged the receipt of an FYI memo/follow-up of the 55 Old Town Road home occupation complaint.
2. Minutes: February 15, 2011
The board reviewed the minutes and suggested the following corrections:
On page two, paragraph two, change the words “third fire station” to “proposed substation”.
On page five, fourth paragraph, add the words “up to” before “fifteen (15) employees...”.

**MOTION: Mr. Hauschildt made a motion to approve the February 15, 2011 minutes
as amended.
Mr. Cole seconded.
The motion passed 4-0. Mr. Prior abstained.**

3. ZBA rules of Procedure:
The board decided to post this topic under other business for April.
4. Mr. Eastman announced that all of the zoning amendments passed at the town election. He also noted that the Planning office has recognized the need for more advertising to explain the zoning amendments for the general public.

**MOTION: Mr. Prior made a motion to adjourn.
Mr. Cole seconded.
The motion passed unanimously.**

The meeting adjourned at 8:55PM.

The next meeting of the Exeter Zoning Board of Adjustment will be held Tuesday, April 19, 2011
At 7:00PM in the Novak Room at the Exeter Town offices.

Respectfully submitted,

Christine Szostak
Planning & Building PT Secretary

