

Town of Exeter
Zoning Board of Adjustment
October 20, 2020, 7 PM
Remote via Zoom
Draft Minutes

I. **Preliminaries**

Members Present: Chair Joanne Petito, Vice-Chair Robert Prior, Clerk Rick Thielbar, Kevin Baum, Martha Pennell - Alternate, , Esther Olson-Murphy - Alternate, Ann Surman - Alternate

Members Absent: Laura Davies, Christopher Merrill – Alternate, Hank Ouimet - Alternate

Others Present: Doug Eastman

Call to Order: Acting Chair Bob Prior called the meeting to order at 7 PM. Chair Petito will be acting as a voting member upon her request.

Mr. Prior read a statement:

As Acting Chair of the Zoning Board of Adjustment, I find that due to the State of Emergency declared by the Governor as a result of the COVID-19 pandemic and in accordance with the Governor's Emergency Order #12 this public body is authorized to meet electronically.

On Friday, October 16, 2020, public notice of this meeting was posted on the town website and on the bulletin board of the town offices at 10 Front Street. As provided in that public notice, the public may access the meeting online and via phone.

Please note that all votes taken during this meeting shall be done by roll call vote. Let's start the meeting by taking a roll call attendance. When each member states their presence, please also state whether there is anyone in the room with you during this meeting and who that person is (son, daughter, spouse, etc...), which is required under the Right-to-Know law.

Ms. Olson-Murphy will be the voting alternate at this meeting.

II. **New Business**

- A. The application of Janet E. Rooney for a special exception per Article 4, Section 4.2, Schedule I – Permitted Uses (Note #1) and Article 5.2 to permit an existing “in-law” unit to be converted to a permitted residential dwelling unit. The subject property is located at 11 Hale Street, in the R-2, Single Family Residential zoning district. Tax Map Parcel #62-120. Case #20-14.

44 Ms. Rooney said she would like to turn a 700 square foot in-law apartment into a
45 legal unit. She's looking to rent it out. No exterior modifications are planned and there is
46 sufficient parking. The apartment is a studio.

47 Mr. Eastman said they're treating this as a conversion from an existing legal in-
48 law apartment to a legal rental for special exception purposes.

49 Mr. Prior opened the discussion to the public, but there were no comments. Mr.
50 Prior closed the public session.

51 Mr. Prior asked if the Board had any discussion, but there was none.
52

53 Ms. Petito moved to approve the application of Janet E. Rooney for a special exception
54 per Article 4, Section 4.2, Schedule I – Permitted Uses (Note #1) and Article 5.2 to
55 permit an existing "in-law" unit to be converted to a permitted residential dwelling unit as
56 stated in the application. Mr. Baum seconded. By a roll call vote, all were in favor.

- 57
- 58 B. The application of Thomas and Rebekah Bergeron for a variance from Article 4,
59 Section 4.3 Schedule II: Density and Dimensional Regulations-Residential to
60 permit the proposed construction of a 17' 9" x 20' carport encroaching within the
61 required side yard setback. The subject property is located at 44 Washington
62 Street, in the R-2, Single Family Residential zoning district. Tax Map Parcel #74-
63 144. Case #20-15.

64

65 Mr. Prior said he is friends with the Bergerons, so he will recuse himself from
66 voting on this case. Ms. Surman will vote in his place.

67 Tom and Rebekah Bergeron, as well as builder Brian Ferguson, were present to
68 discuss the application. Mr. Bergeron said they have a small lot, $\frac{1}{8}$ acre, and would like
69 to add a carport to their driveway to deal with winter weather. They looked at a garage,
70 but thought the carport would fit better with their neighborhood. They're coming within
71 two feet of the property line, rather than the required 10 feet, but there's no other
72 location on the property that would work. They don't feel there would be negative effects
73 on the neighborhood. There are other properties on the street that are close to the
74 property line. There is well over 50 feet between the carport area and the nearest house.
75 Mr. Prior asked if the intervening lot was large enough to be subdivided, and Mr.
76 Bergeron said no.

77 Mr. Thielbar said that a two feet clearance to the property line is a big ask. Could
78 he get formal approval from the neighbor? Ms. Bergeron said they've discussed it with
79 her, and she was fine. She was aware of this meeting [but is not present]. Mr. Thielbar
80 asked if they could make formal approval from the neighbor a condition of the approval.
81 Mr. Prior said he didn't feel that was necessary, as the abutter has been noticed and had
82 the opportunity to speak for or against the case. Mr. Baum agreed. He wouldn't want the
83 neighbor to be able to approve or deny, which would set a bad precedent. Mr. Eastman
84 agreed, saying the abutter was legally notified, so if they had an issue they would be
85 here. Ms. Petito said she doesn't see an abutter list in the packet. Mr. Eastman
86 confirmed that there was a list and they were notified.

87 Ms. Pennell asked if this carport would prevent vehicles such as a fire engine
88 from getting to the rear of the property. Ms. Bergeron said they have the house and a
89 shed, so they already have to go around the property through a neighbor's yard. Ms.
90 Petito said she thought the setback in Schedule II 4.3 is 15 feet. Mr. Eastman said it's 10
91 feet, since it's a non-conforming lot without the 100 feet of frontage. Ms. Pennell asked if
92 the carport will be open on three sides. Ms. Bergeron said yes, they originally thought
93 they would do a garage, but the lot was too limited and they wanted to be able to see
94 traffic coming. Mr. Baum asked if this was later enclosed by another owner, would that
95 require further relief? Mr. Eastman said no, enclosing wouldn't change the footprint or
96 anything to do with the zoning. If there were windows on the house they could not
97 remain if connected to a garage, and the connecting wall would have to have a fire
98 rating. It's just a building code issue. Ms. Petito asked if they had a carport that fit only
99 one car, could they park another car next to it? Mr. Bergeron said no, they would be on
100 the sidewalk.

101 Mr. Prior opened the discussion to the public, but there were no comments. Mr.
102 Prior closed the public session.

103 Mr. Prior asked if the Board had any discussion. Mr. Baum said this is a
104 reasonable request given the area. This is such a small lot, but it's there, and he doesn't
105 see any real impact given the existence of the lawn to the right.

106 Mr. Baum went through the variance criteria. 1) Variance will not be contrary to
107 the public interest and 2) spirit of the ordinance is observed; yes, there are many existing
108 houses in the neighborhood that don't meet this requirement. It is consistent with the
109 neighborhood. 3) Substantial justice is done; yes, in this case, it weighs in favor of the
110 applicant to protect their cars in the winter. 4) Values of surrounding properties are not
111 diminished; yes, it's consistent with the neighborhood, and shouldn't have any impact.
112 This will increase the value of this property, which may increase values of surrounding
113 properties. 5) Literal enforcement of the ordinance would result in hardship; yes, it's
114 difficult or impossible to do anything on this lot without going into the setbacks. He
115 doesn't think the neighbor impacted would see a difference between a full or a one-car
116 carport. The size is pretty standard for two cars. He believes that it meets the
117 requirements.
118

119 **Mr. Baum moved to approve the request for a variance from Article 4, Section 4.3**
120 **Schedule II for the proposed construction of a 17' 9" x 20' carport encroaching**
121 **within the required side yard setback. Ms. Surman seconded.** Ms. Pennell asked if
122 they are affecting the rights of the neighbor to the right that has the open space, for
123 example the right to put a shed in near the property line. Mr. Thielbar said they would be
124 setting a precedent, so the neighbor may also be able to put in a shed two feet from their
125 property line. Mr. Prior said he doesn't think they're setting a precedent, as there are
126 many examples of structures within setbacks in neighborhoods like this. He does not
127 think that they are limiting the rights of the abutter. Mr. Eastman said that the neighbor's
128 lot is a conforming lot, a "double lot," so she is more restricted, but she could put a shed
129 on the property line. If the applicant's neighbor was concerned about it or had future
130 plans, she would have been here. **In a roll call vote, Ms. Petito, Mr. Baum, and Ms.**

131 **Surman voted yay, and Mr. Thielbar and Ms. Pennell voted nay. The motion**
132 **passed 3-2.**

- 133
134
135 C. The application of IOKA Properties LLC for a variance(s) from Article 4, Section
136 4.4. Schedule III: Density & Dimensional Regulations-Non Residential seeking
137 relief from the Maximum Height Regulations and the Minimum Rear Yard
138 Setbacks; and from Article 5, Section 5.6.6. Off-Street Parking Schedule to allow
139 for no off-street parking to be provided in conjunction with the proposed
140 redevelopment of the existing building. The subject property is located at 53
141 Water Street, in the WC-Waterfront Commercial zoning district. Tax Map Parcel #
142 73-34. Case #20- 16.

143 Mr. Thielbar moved to defer case #20-16 until the November meeting. Ms. Pennell
144 seconded. By a roll call vote, all were in favor.

- 145
146 D. The application of Benjamin and Sarah Anderson for a modification to a
147 previously granted variance from Article 4, Section 4.2 which permitted the use of
148 the existing accessory barn on their property for community gatherings. The
149 Applicant is seeking relief to permit the operation of a nano-brewery and tasting
150 room, with limited hours, in the basement/ground floor of the barn structure. The
151 subject property is located at 66 Newfields Road, in the RU Rural zoning district.
152 Tax Map Parcel #24-29. Case #20-2.

153 Mr. Thielbar moved to defer case #20-2 until the November meeting. Ms. Pennell
154 seconded. By a roll call vote, all were in favor.

155
156 **III. Other Business**

- 157 A. Approval of Minutes: September 15, 2020

158 Mr. Prior said the version in the packet was incomplete, but they were emailed a
159 complete version separately. Mr. Prior, Mr. Thielbar, Ms. Olson-Murphy, and Ms.
160 Surman were present at that meeting and will be voting.

161 Mr. Thielbar moved to approve the minutes of September 15, 2020 as presented. Ms.
162 Surman seconded. By a roll call vote, all were in favor.

163
164 **IV. Adjournment**

165
166 **MOTION:** Mr. Thielbar moved to adjourn. Ms. Surman seconded. All were in favor and the
167 meeting was adjourned at 7:45 PM.

168
169 Respectfully Submitted,
170 Joanna Bartell
171 Recording Secretary