

Zoning Board of Adjustment Meeting Minutes

Location: Strafford Town Hall Conference Room

Date & Time: April 18, 2024 6:30PM

Voting Board Members Present:

Ashley Rowe – Chairman
Scott Hodgdon
Jean Chartrand-Ewen

Non-Voting Board Members Present:

Charlie Burnham

Others Present:

Blair Haney, Strafford Regional Planning Commission, Regional Planner
Robert Fletcher, Minutes Recorder

The Chairman called the meeting to order at 6:34PM and indicated the closing date for new applications to be filed for the agenda for the regular May 16, 2024 meeting is Thursday, April 25, 2024. He recognized Board members Scott Hodgdon, Jean Ewen, and Charlie Burnham as present, and appointed Charlie Burnham as a voting Board member.

Continuing Business

Barry and Julie Schraufnagel are requesting Variances and a Special Exception in order to construct an addition on their existing non-conforming home and to create an Accessory Dwelling Unit (ADU) in the new space. The Schraufnagels are requesting a Variance to Article 1.4.4, Section 3 Wetland Buffer Areas of the Zoning and Land Use Ordinances in order to construct an addition to the northeasterly end of their existing non-conforming home. The proposed 21 foot by 22 foot two-story addition and rear stairs will come within 38.6 feet of the drainage ditch behind their home at its closest point, which is closer to the drainage area than current wetlands buffer ordinances require. The area of the proposed addition meets all other setback requirements. The applicants are also requesting a Variance to Article 1.7.1 of the Zoning and Land Use Ordinances in order to expand their existing non-conforming structure. The existing home encroaches into the required wetland buffer to the rear drainage area and the proposed addition will also encroach into the required wetland buffer to the drainage area, so the proposed addition will be an expansion of an existing non-conforming use making the structure more non- conforming. (15 Lake Shore Drive, Tax Map 35, Lot 16)

Barry and Julie Schraufnagel are requesting a Special Exception under Article 1.4.1, Section K Accessory Dwelling Unit of the Zoning and Land Use Ordinances in order to create an Accessory Dwelling Unit in the new space they hope to construct at the easterly end of their existing non-conforming home. The 462 square foot ADU would meet all requirements for an attached ADU. The existing home and ADU will be served by a proposed new septic disposal system that meets the wetlands buffer requirements. (15 Lake Shore Drive, Tax Map 35, Lot 16)

The Chairman recused himself and stated that the applicant had the right to proceed or delay consideration due to the presence of only three voting Board members. He appointed Jean Ewen as Chairman to address the case.

Attorney Eric Maher of Donahue Tucker and Ciandella, as representative for the applicant, agreed to proceed and present the case. He recognized the Schraufnagel's and family members as present and briefly stated the Variance and Special Exception requests to expand the residence for an attached ADU. With reference to a portion of the Pioneer Shores subdivision plan, he described Lot 16 as narrow "remainder lot" triangular in shape with excess frontage on Lake Shore Drive and limited depth which effects structure setback requirements. There is a man-made drainage ditch along the rear of the property which directs stormwater runoff to a pre-existing drainage system on Lake Shore Drive. The ditch is considered a wetland area, but is at an elevation above that of the existing residence and the proposed ADU addition. Attorney Maher provided a floor plan for the one bedroom 462 square foot ADU addition which will allow the Schraufnagel's to age in place with family members. The current septic system is inadequate to handle the additional waste loads from the ADU, and a new septic system will be installed. He noted that several letters of support from Schraufnagel neighbors are on record with the town.

Attorney Maher addressed the the five criteria to be met for a proposal to qualify for the granting of a Variance as follows:

1. Granting of the Variance would not be contrary to the public interest.
Stormwater runoff from the additional structure will not impact the wetland area, because the structure is located at an elevation below that of the wetlands. Additionally, the wetland area is not a wildlife habitat.
2. Granting the Variance would be consistent with the spirit of the Ordinance.
The proposed addition will be constructed to blend in with the existing structure and will not alter the essential character of the neighborhood. Public health, safety, and welfare is not adversely impacted, because the new septic system will adequately handle the increased loads.
3. Granting of the Variance would do substantial justice.
The ADU will allow the applicants, long-time residents of Strafford, to provide a place for their daughter and her family to live at a time when affordable housing in New Hampshire is critical. It also will allow the Schraufnagel's to age in place. The denial of the Variance will not protect the wetlands any further than the wetlands are currently protected.
4. Granting the Variance will not result in diminution of surrounding property values.
The ADU will be substantially similar to the existing residence in terms of height, design, and appearance. There are several letters of support from Schraufnagel neighbors for this project.
5. Special conditions exist such that literal enforcement of the Ordinance will result in unnecessary hardship to the applicant as defined under applicable law.
The lot is unique in shape, dimension, and topographical features that limit the placement of an ADU which meets Special Exception requirements. Denial of the Variance will create a hardship for the Schraufnagel's. They will not be able to provide living space for family members nor have a future location to age in place.

Charlie Burnham noted the need for a NHDES approved septic system design when granting a Special Exception for the ADU. Attorney Maher noted the uncertainty of granting a Variance which needs to proceed the granting of a Special Exception. A Variance denial would prevent construction of the ADU, and as a result, place an unnecessary financial burden on the Schraufnagel's to pay for a septic design that would not be needed. He suggested the Board consider granting a conditional Special Exception for the ADU.

Blair Haney suggested constructing a detached ADU to eliminate the need for Variances. Attorney Maher that the lot size and features may not allow a compliant area for a detached ADU and may require relocation of the septic system.

The Chairman opened the meeting for public comment at 7:01PM. Blair Haney read, for the record, letters from residents regarding the Schraufnagel's application, which are summerized below:

- Frank Mayo, 20 Lake Shore Drive, objects to another non-conforming structure on the property. He states that water run-off from the Schraufnagel's property enters his property via a pipeline and an additional strucure will increase the run-off, which he does not want.
- Richard Miller, 12 Lake Shore Drive, supports the granting of both Variances and the Special Exception for the ADU, but expressed concern regarding lack of maintenance of the town-owned drainage along Lake Shore Drive, which prevents proper flow of water from neighboring properties.
- Christopher Clery, 27 Lake Shore Drive, supports the granting of both Variances and the Special Exception for the ADU, and would welcome the Schraufnagel's daughter and son-in-law as new neighbors who would help the Schraufnagel's age in place.
- James and Susan Welch, 57 Lake Shore Drive, support the granting of both Variances and the Special Exception for the ADU and are confident that their proposed plans are sensitive to the surrounding ecosystem.
- Michael and Nancy Curtin, 45 Lake Shore Drive, support the granting of both Variances and the Special Exception for the ADU. The Schraufnagel's are good neighbors who are active in the community and would love for their daughter to be a permanent resident with the opportunity to help the Schraufnagel's age in place.

There being no comments from public attendees, the Chairman closed the meeting to public comments at 7:07PM.

The Board reviewed the applicant's responses to the criteria and found them to be satisfactory. The Chairman questioned mitigation of stormwater runoff associated with the ADU addition as alleged by neighbor, Frank Mayo. Attorney Maher indicated that the ADU gutter drainage will direct run-off flow into crushed rock, and the ADU will eliminate a significant portion of the driveway impervious surface. Water run-off from the Schraufnagel's property, in addition to run-off from other properties on Lake Shore Drive, is collected in the town-owed roadway drainage system, passes through a culvert under Lake Shore Drive, and continues to flow on a town right-of-way to Bow Lake.

Jean Ewen asked for a motion to approve a Variance to Article 1.4.4, Section 3 Wetland Buffer Areas to construct an addition to an existing non-conforming home, which was so moved by Scott Hodgdon,

seconded by Charlie Burnham, and voted upon verbally in the affirmative by all Board members. The motion passed.

Jean Ewen asked for a motion to approve a Variance to Article 1.7.1 of the Zoning and Land Use Ordinances to expand an existing non-conforming structure. Scott Hodgdon made the motion, which was seconded by Charlie Burnham and voted upon verbally in the affirmative by all Board members. The motion passed.

Jean Ewen noted the need for a condition of approval regarding the Special Exception under Article 1.4.1, Section K Accessory Dwelling Unit of the Zoning and Land Use Ordinances to create an ADU of an existing non-conforming home. Scott Hodgdon made a motion to approve a Special Exception with the condition that the applicant provide the Town with a compliant NHDES approved septic system siting and design to handle the increased waste loads from the ADU. Charlie Burnham seconded the motion, and all Board members voted verbally in the affirmative to approve the Special Exception. The motion passed.

Ashley Rowe resumed duties as Board Chairman.

New Business

Case #24-004: Ted Karahalios is requesting a Special Exception under Article 1.4.1, Section K and Variances to Article 1.4.1 Section K, Paragraph III (3) and Paragraph V (h), Accessory Dwelling Unit (ADU) of the Zoning and Land Use Ordinances in order to convert the second floor of a detached garage currently under construction into an Accessory Dwelling Unit (ADU). The proposed 920 square foot ADU exceeds the maximum square foot requirement of the ordinance by 170 square feet and the existing lot does not meet the minimum land area requirements for a detached ADU under current ordinances. The new garage and Accessory Dwelling Unit meets all structure setback requirements and has a new approved septic disposal system. (42 Ricky Nelson Road, Tax Map 8, Lot 75-1)

Ted Karahalios was present to address the Special Exception request. He indicated that he initially intended the structure to be a garage, began construction, and decided later to include a second story ADU to include an office.

The Board reviewed the applicant's responses to the Special Exception criteria for an ADU and found them to be satisfactory, except for meeting the ADU maximum square footage requirement. The Chairman determined that the Variance requests needed to be addressed before the Special Exception. He stated that the applicant must demonstrate that a hardship would result from the denial of a Variance to exceed the maximum ADU square footage. Mr. Karahalios stated that he had already built the structure, and it would be a financial hardship to not use it as an ADU-it would be wasted space. The Chairman advised the applicant that a financial hardship imposed by one's own actions cannot be used as a hardship. The Board suggested the separation of the office from the ADU living space to bring the ADU into square footage compliance. This would require the applicant to request a continuance to allow time to provide updated floor plans, which would eliminate the need for a Variance for the ADU size.

The Chairman addressed the Variance for a detached ADU on an existing lot that does not meet the minimum land area requirements. He opened the meeting for public comments at 7:42PM. Bill Greenan, 50 Ricky Nelson Road, indicated support for applicant and believed he should be allowed to do what he wants. Jessica Freiman, 51 Ricky Nelson Road, spoke in support of the applicant's ADU proposal. There being no further comments, the Chairman closed the meeting to public comment at 7:42PM. The Chairman indicated that the Board had adequately addressed the criteria for granting the Variance under a hardship of no alternate site location, and asked for a motion to approve the Variance to allow the ADU to be detached on a sub-standard lot. Scott Hodgdon made the motion, which was seconded by Jean Ewen and voted upon verbally in the affirmative by all Board members. The motion passed.

The applicant requested a continuance. The Chairman asked for a motion for continuance on the Variance request for excess ADU, which was so moved by Jean Ewen, seconded by Scott Hodgdon, and voted upon verbally in the affirmative by all Board members. The motion passed. He also asked for a motion for continuance on the Special Exception request to allow an ADU, which was so moved by Jean Ewen, seconded by Charlie Burnham, and voted upon verbally in the affirmative by all Board members. The motion passed.

Other Business

The Chairman confirmed that the Board had reviewed the minutes from the March 21, 2024 meeting and asked for a motion to accept them as written. Jean Ewen made the motion, which was seconded by Charlie Burnham and voted upon verbally in the affirmative by all Board members. The motion passed.

There being no further business before the Board, the Chairman called for a motion to adjourn. Jean Ewen moved to adjourn, which was seconded by Scott Hodgdon and voted on in the affirmative by all Board members. The meeting adjourned at 7:56PM.