

**TOWN OF NEW HAMPTON
ZONING BOARD OF ADJUSTMENT
MEETING MINUTES
TOWN OFFICES
NEW HAMPTON, NH 03256**

September 4, 2019

- MEMBERS PRESENT** Regular members: Mr. Tierney, Ms. Karnis, Mrs. Belanger.
Alternate member: Mr. Livernois.
- OTHERS PRESENT** Administrative Assistant Mrs. Vose
- CALL TO ORDER** Mr. Tierney called the meeting to order at 7:00 PM.
Mr. Tierney appointed Mr. Livernois to vote in place of Mr. Hofling.
- CORRESPONDENCE** There was none.
- PUBLIC HEARING** James Doig was present to represent the application.
James & Jennifer Doig, 4 Riverwood Drive, Tax Map R-12, Lot 28A, for a Special Exception -Article VI, Section A: 3 & 5, of the New Hampton Zoning Ordinance. Mrs. Vose advised that the applicants, James & Jennifer Doig, have requested a Public Hearing in accordance with RSA 676:7, for a Special Exception under Article IV, Section A.3 & 5 to make alterations to the basement of a house, which is to be constructed, creating a two bedroom accessory dwelling unit in the basement.. To create an accessory dwelling unit (ADU) the applicant shall meet the definition and provisions under Article V, R. The property belonging to James & Jennifer Doig is located at 4 Riverwood Drive, Tax Map R-12, Lot #28A, in the Village District.
- Mr. Tierney advised that this was an empty lot at this time as it has not yet been developed. It was the consensus of the board that the application did not have a regional impact.
- Mrs. Vose advised that all abutters were notified but heard from none.
- Mr. Tierney asked the members if they had a chance to review the pertinent information that was previously sent to members relative to this application and they said they had.
- Mr. Tierney reviewed the requirements of an ADU in the zoning ordinance:
- i. Only 1 ADU would be permitted.
 - ii. The ADU must provide independent living facilities, ie. sleeping, eating, cooking, and sanitation. Mr. Livernois said the septic design is for a 5-bedroom home and there 2 proposed bedrooms in the ADU and asked if there were 3 more bedrooms

upstairs in the home and Mr. Doig said there were and confirmed the one system would serve all bedrooms. Mr. Tierney said it would be a problem as it was his understanding that the 2 bedroom ADU would require 2.5 bedrooms for septic loading purposes. Mrs. Vose explained that DES rules require a 1.5 bedroom loading while a two bedroom apartment requires loading for 2 bedrooms. The board reviewed the septic design plan that NHDES had approved, which states “3 bedroom home with 2 bedroom apartment in basement”. Mrs. Vose said she would provide the state rules to the board.

- iii. The ADU shall have an independent means of ingress and egress through a common space.
- iv. The ADU shall be attached to or within the principal dwelling unit or accessory building. Mr. Tierney noted the ADU was in the basement.
- v. Either the ADU or principal dwelling unit is the owner’s principal residence. Mr. Doig said it would be.
- vi. An ADU in the principal dwelling shall not exceed 800 sq. ft. in habitable floor area. Mr. Tierney advised that the application notes the calculation as 658 sq. ft. He said he and Mrs. Vose previously spent a lot of time calculating and came up with 799.75 sq. ft. Mr. Tierney advised that the Doig contractor has provided his calculation for the apartment at 777 sq. ft. which was submitted for the record. Mr. Tierney said this amends the application from the 658 sq. ft. to both the 799.75 and 777 sq. ft., both of which are below the limitation. There was some discussion on how the dimensions were calculated using the floor plan supplied by the Doigs, including the exclusion of a well head compartment in the apartment.
- vii. The ADU is in an accessory building. The board agreed this did not apply.
- viii. The ADU shall have no more than 2 bedrooms. Mr. Tierney noted that this was confirmed the submitted drawing.
- ix. An ADU shall be provided a minimum of two off-street parking spaces, in addition to primary dwelling unit parking requirements. Mr. Doig advised there were two basement level parking spaces in addition to spaces for the main home.
- x. An ADU shall make provision for adequate water supply and sewage disposal service in compliance with NHDES. Mr. Tierney advised the applicants have gotten approval for a 5-bedroom system.

The board reviewed the Special Exception requirements.

The specific site is an appropriate location for such use: Mr. Tierney said it is a residential area and the lot is over 2 acres.

There is adequate area for safe and sanitary sewage disposal: Mr. Tierney referred to the state approved plan.

The use will not adversely affect the adjacent area: Mr. Tierney said it is a one family home with an ADU in a residential neighborhood.

There will be no nuisance or hazard created: Mr. Tierney said not by granting the ADU.

Adequate and appropriate facilities will be provided for the proper operation of the proposed use: The board agreed the facilities were appropriate.

The use will not impair the aesthetic values exhibited by the surrounding neighborhood: Mr. Tierney advised it will improve the neighborhood.

The building, parking/or driveway area will not exceed the maximum percentage of lot coverage in the applicable zoning district: Mr. Tierney noted that the building permit was already approved and the Selectmen felt it met that criteria.

Mr. Tierney advised the board would go into deliberations. He said the board is typically made up of 5 members and there are not 5 members present. He said if the board were to deny the Special Exception the fact that there are not 5 members present is not a reason to appeal the decision, asking Mr. Doig if he wanted to move forward with the members present. Mr. Doig said he would.

Ms. Karnis asked about habitable area of the apartment, referring to the remaining section of the basement which this apartment has access to. The board noted that the remaining basement area was outside of the basement apartment.

Mr. Tierney said that this ADU could become a rental unit therefore the Fire Dept. would need to perform a life safety inspection for that use. Mr. Tierney explained that life safety as it relates to a home is different once it becomes a rental unit.

Ms. Karnis made a motion, seconded by Mrs. Belanger, to approve the Special Exception with the following condition:

1. Applicants will obtain a Life Safety inspection by the Fire Department as there was potential for the Accessory Dwelling Unit (ADU) to be a rental unit.

Vote was unanimous.

Mr. Tierney said once the construction is done the board would like “as-built” drawings to reflect what is built which Mr. Doig agreed to. Mrs. Vose asked if the board was making this a condition and they agreed it should be a condition.

Ms. Karnis made a motion, seconded by Mr. Livernois to amend the first motion to add the condition.

2. The applicants must submit an as-built plan of the Accessory Dwelling Unit (ADU) once complete.

Vote was unanimous.

Mr. Tierney made a motion to amend the previous motion, that the applicants obtain this Approval for Construction within 60 days. Ms. Karnis seconded the motion. Vote was unanimous.

MINUTES

Ms. Karnis made a motion, seconded by Mrs. Belanger, to approve the minutes of 4/3/19 with the following amendments.

1. Pg 1: Under "Public Hearing" correct spelling of Mr. French's 1st name.
2. Under "Adjournment" add a period after "pm". Vote was unanimous.
3. Pg. 2, 3rd paragraph from the bottom "they must have absorbent mat under vehicle, no more..." insert "*than*" before "...1/8 tank".
4. Pg. 5, last paragraph, last sentence – "Ms. Karnis withdrew her motion for.." insert "*the purpose of having*" before "...more conversation on conditions."

Vote passed.

Ms. Karnis made a motion, seconded by Mrs. Belanger, to approve the minutes of 11/6/19 as written. Vote was unanimous.

DISCUSSION ON BY-LAWS

Mr. Tierney reviewed with Mr. Livernois that when the New Hampton Community Church submitted their application it was determined there was a flaw in the application as it was discovered that the ZBA could not legally allow for construction into the ROW, which was what they were proposing. As the current By-Laws don't allow for the rejection of the application prior to scheduling a hearing, based on the information the board had to meet to discuss and at that time notify the applicants of this problem. Mr. Tierney said he is proposing a change to the By-Laws and submitted draft language to the board members which allows for the Town Administrator, Administrative Assistant, or the ZBA Chair to review applications for completeness. If the application is not complete it can be returned to the applicant with an explanation of outstanding items. It would still allow for the applicant to move forward with the hearing with the application as is, if they chose to. Mr. Tierney explained that the applicant can't be instructed on the details of what they need, only a general statement of what is incomplete. He asked the board to review the draft and make any comments, submitting them to Mrs. Vose. He said town counsel would have to review the changes.

OTHER BUSINESS

Handouts: NHMA case law; NH Town & City "*When is a House a*

Hotel?”

ADJOURNMENT

Ms. Karnis made a motion, seconded by Mr. Livernois, to adjourn at 7:42 pm. Vote was unanimous.

Respectfully Submitted,

Pam Vose, Administrative Assistant

DRAFT