

**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, Mr. Hofling, and Mrs. Belanger. Absent – Mr. Livernois.

OTHERS PRESENT Administrative Assistant Mrs. Vose

CALL TO ORDER Mr. Tierney called the meeting to order at 7:00 PM.

PUBLIC HEARING Bruce & Marcia Hamel were present to represent the application.

*Bruce & Marcia Hamel, 15
Gordon Hill Road, Tax
Map R-3, Lot 10, for a
Special Exception -Article
VI, Section A: 3 & 5, of the
New Hampton Zoning
Ordinance.*

Mrs. Vose advised that the applicant, Bruce & Marcia Hamel, has requested a Public Hearing in accordance with RSA 674:33-a, for a Special Exception under Article IV, Section A.3 & 5 to make alterations to the basement of an existing house to create a one bedroom accessory dwelling unit (ADU). To create an accessory dwelling unit the applicant shall meet the definition and provisions under Article V, R. The property belonging to Bruce R. & Marcia M. Revocable Trusts is located at 15 Gordon Hill Road, Tax Map R-3, Lot #10, in the General Residential, Agricultural, and Rural District.

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 advised that as the town reviews listings for homes for sale in New Hampton, they noted the house was listed and stated there was an apartment. Upon review of the property file it was noted the property assessment card did not list an ADU and the building permit for construction of the home, listed it as a 3-bedroom house but did not list an ADU. The Town Office contacted the Hamels to advise them of the approval process for an ADU.

Mrs. Hamel said she included a letter which stated it was all part of the original plan when they constructed the home. Mr. Tierney read the letter into record explaining their need to create a space for her aging mother to live in while having a caregiver living upstairs. There are 2 methods of ingress/egress. Due to her mother's passing they are now selling the home.

Mrs. Hamel asked what made it an ADU and Mr. Tierney explained if it has a sleeping place, an eating place, a cooking place, and sanitation it is an ADU. She agreed it had those.

Mr. Tierney said the building permit they obtained in 2008 stated there were 3 bedrooms, but there are 3 bedrooms upstairs and one in the basement. She said in their mind, the basement was a flexible space. Mr. Tierney advised that the septic design was for a 4-bedroom home and that at the time of the septic approval the 3 bedroom house and 1 bedroom apartment would have required a 4.5 bedroom septic design because of the extra loading with the kitchen. Mrs. Hamel referenced a letter from septic designer Colin Brown which states the existing septic system at 4 bedrooms is good system and is working well. Mr. Tierney said Mr. Brown was contacted and after learning there was an ADU in the basement agreed that regulations would require a 4.5 bedroom design.

Mr. Tierney reviewed the provisions of an ADU in the zoning ordinance:

- i. Only 1 ADU would be permitted. Mrs. Hamel confirmed this was correct.
- ii. The ADU must provide independent living facilities, ie. sleeping, eating, cooking, and sanitation.
- iii. The ADU shall have an independent means of ingress and egress through a common space. Mrs. Hamel had said in her letter that there were two sets of stairs, in and out. Mr. Tierney read into record a letter from Fire Chief Drake advising it was in compliance with life safety and fire codes.
- 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. Mrs. Hamel said it was. Ms. Karnis asked if they lived there full time. Mr. Hamel said it was their primary residence since 2015, though they own a house in Littleton and will move there once the house is sold.
- vi. An ADU in the principal dwelling shall not exceed 800 sq. ft. in habitable floor area. Mr. Tierney referred to copies of the ADU floor plan submitted by the applicants. He advised that he calculated the area with a total of 783.17 sq. ft., with calculations shown on Mr. Tierney's copy.
- vii. The ADU shall have no more than 2 bedrooms. Mrs. Hamel confirmed it had only 1 bedroom.
- viii. An ADU shall be provided a minimum of 2 off-street parking spaces, in addition to primary dwelling unit parking requirements. Mrs. Hamel said there was a 2 car garage, several spaces on the side of the garage, and several in the driveway.
- ix. An ADU shall make provision for adequate water supply and

sewage disposal service in compliance with NHDES. Mr. Tierney said this is a problem that the septic system must handle a 4.5 bedroom load.

Ms. Karnis asked for more details on their living situation. Mrs. Hamel said they used to live on Brae Lane, but sold that in 2017 and moved into this present home. They wintered in FL but came back to Gordon Hill Road. They now split time between Littleton and New Hampton, with Mr. Hamel still working full-time locally. Mrs. Hamel said they began registering their vehicles in Littleton as they own a house there and will be retiring there. Mr. Hamel said he couldn't understand how the town didn't know about the apartment as that was their initial plan to have the house for his mother-in-law and the ADU for a caretaker. He pointed out that they went through the approval process for an apartment in the Brae Lane house. He said they had a 4 bedroom septic design for the Gordon Hill Road home and thought they had done everything correctly, so were surprised when they were notified about the need for the Special Exception. Mr. Hamel said they are transitioning into retirement and will be moving to Littleton as soon as the house sells.

The board reviewed the Special Exception requirements.

The specific site is an appropriate location for such use: Ms. Karnis confirmed the property met the setback distances to property lines. She said she has problem with the inaccuracy of the applicant stating in the application that the ADU was noted on the original building plans, when in fact, the town doesn't have those plans. Ms. Karnis said she wanted the record to reflect the Hamels did not have approvals when they were issued a building permit, to include an ADU. Mr. Tierney stated that in 2005 when the permit was issued a Special Exception would have been necessary for an apartment.

There is adequate area for safe and sanitary sewage disposal: Ms. Karnis advised that NHDES would determine compliance and Mr. Tierney said the Hamels would need to get a design for a 4.5 bedroom system. Ms. Karnis asked to have the record reflect the applicants' statement that the septic design was suitable for the home and basement living quarters, which doesn't appear to be the case as the design is for 4 bedrooms. Mr. Tierney said in 2008 a 4.5 bedroom would have been required.

The use will not adversely affect the adjacent area: Ms. Karnis pointed out that the applicants' application mentioned the plans "that were submitted and approved", when this was not the case. Mr. Hamel thought they had submitted the plans and thought everything was in order. Mr. Tierney asked to have the record reflect this statement in the application wasn't correct. Mr. Hamel said the entire basement does not constitute the ADU area as there are unfinished areas. The board

looked at photos of the basement areas, finished and unfinished, the parking and entrance to the ADU.

There will be no nuisance or hazard created: Ms. Karnis asked if there was a vegetative buffer to screen the view from neighbors. Mrs. Hamel said it was forested to the sides and rear.

Adequate and appropriate facilities will be provided for the proper operation of the proposed use: Mr. Tierney pointed out the letter previously reviewed from the Fire Chief. He pointed out the septic system issue.

The use will not impair the aesthetic values exhibited by the surrounding neighborhood: The board had no questions. Mr. Tierney pointed out that improvements were all interior.

The building, parking/or driveway area will not exceed the maximum percentage of lot coverage in the applicable zoning district: Mr. Hofling said he did not think this was applicable as it was an existing house. Ms. Karnis said it appeared to meet this requirement.

Ms. Karnis said the plot plan they reviewed it noted it as being 11 acres but the applicant stated it was 2 acres. Mrs. Vose pointed out that it was recently approved for subdivision and is now 2 acres and met all requirements. Mrs. Hamel found something online relative to an appropriate septic system for an ADU and the fact it only needed to be installed if the system failed or had to be replaced. Mrs. Vose said this rule appears to say they do not need to install the 4.5 bedroom system, but the Hamels would the approval for construction to show the land could support a 4.5 bedroom system – if it was to fail.

Ms. Karnis made a motion, seconded by Mr. Hofling to go into deliberations. Vote was unanimous.

Ms. Karnis stated that the applicants should obtain a septic design to handle the 3 bedroom house and 1 bedroom ADU and expressed concern with the amount of time they are not at the home and the fact they are registering vehicles in Littleton. She pointed out that it really isn't their principal residence. Ms. Karnis said rather than going through the process before the creation of the ADU, which they had gone through before, they constructed the ADU then asked for forgiveness. Mr. Hofling said his problem is the septic design but doesn't have an issue with the other items Ms. Karnis pointed out, as the applicants are the process of moving. Mrs. Belanger said she agrees the septic design is a problem but wasn't concerned with the residency requirement. Mr. Tierney agreed.

Ms. Karnis made a motion, seconded by Mrs. Belanger, to approve the

Special Exception with the following condition:

1. The applicants obtain an Approval for Construction for an adequate septic design from NHDES.

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.

Ms. Karnis made a motion, seconded by to approve the Special Exception as amended. The condition as follows:

1. The applicants obtain an Approval for Construction within 60 days for an adequate septic design from NHDES.

Vote was unanimous.

MINUTES

Ms. Karnis made a motion, seconded by Mr. Hofing, to approve the minutes of 6/5/19 as written. Vote was unanimous.

CORRESPONDENCE

There was none.

ADJOURNMENT

Ms. Karnis made a motion, seconded by Mrs. Belanger, to adjourn at 7:54 pm. Vote was unanimous.

Respectfully Submitted,

Pam Vose, Administrative Assistant

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