

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

November 7, 2018

**MEMBERS PRESENT**

Regular members: Mr. Tierney and Ms. Karnis  
Alternate member: Mr. Hofling  
Excused: Mrs. Erler and 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. Hofling to vote in place of Mrs. Erler.

**PUBLIC HEARING**

*Judith Woolfson, on property belonging to Dennis Foran, 98 Campground Road, Tax Map U-9, Lot 8A6, for a Special Exception -Article VI, Section A(2) & Article IV, Section A(5), of the New Hampton Zoning Ordinance.*

Judith Woolfson was present.

Mrs. Vose advised that the applicant, Judith Foran Woolfson, has requested a Public Hearing in accordance with RSA 676:7, for a Special Exception request under Article VI, Section A (2) and Article IV, Section A-5, of the New Hampton Zoning Ordinance. The existing structure is dimensionally non-conforming as it is within the 35ft. setback from the right-of-way, known as Campground Road. The applicant's proposal is to demolish the existing 2 bedroom cottage (24' x 28') and construct a new 2 bedroom cottage (24' x 36'), which is an 8 foot addition to the existing cottage on the east side, and within the limited common area of that property. The property belonging to Dennis Foran is located at 98 Campground Road, Tax Map U-9, Lot #8A6, in the General Residential, Agricultural and Rural Zone.

Ms. Woolfson said her son's cottage is part of Twin Tamarack Condo Assn and has existed since the 1950's. This cottage and a few others are within the setback of the ROW. She showed pictures taken of the cottage to show its distance to the pavement of Campground Road: One photo showing the distance of the NW corner of the existing cottage being 16'; photo 2 showed the NE corner of the existing cottage being 15', and a measurement from the proposed new NW corner being 14', 9" – all to the edge of pavement. She showed a 1983 plot plan for the condominiums and a more recent sketch done for an abutter's cottage, which she said more accurately represents what it looks like on the ground, with the eastern edge of the cottage coming closer to the ROW. Mr. Tierney noted that the recent sketch was not a licensed survey.

Mr. Tierney advised that they did not have a full board of 5 members and offered Ms. Woolfson the choice of having the hearing with the 3 members present, which she agreed to. Mr. Tierney advised that the absence of a full board was not reason for appeal of a decision.

Ms. Woolfson said that other condo owners have obtained approvals for their additions, whether through the ZBA or Planning Board. She realizes the size of the current condo footprint is what is grandfathered but wants to expand to the limits of the limited common area of their cottage. The association and NHDES has approved the expansion.

There was discussion on what the width of the right-of-way was for Campground Road. Mr. Tierney advised that the ordinance states a structure which is dimensionally non-conforming, but part of a conforming use can be enlarged by Special Exception if the applicant satisfies the Special Exception criteria. Ms. Karnis suggested the ZBA first look at whether the Special Exception is actually needed, based on a doctrine called natural extension for grandfathered dimensions (*2015 Municipal Law Lecture Series* - referencing case law). There was discussion on whether this addition constituted a natural expansion. The board agreed to continue with the applicant's reasons why it meets the criteria and if it does, no harm is done in not determining whether this was a natural expansion. Mrs. Vose stated that the Selectmen did review the building permit application first and advised Ms. Woolfson a Special Exception was necessary.

Mr. Tierney advised that a site visit would be necessary.

Mr. Tierney read into record the applicants request to permit demolition of the current cottage, 24' deep, 28' long, and rebuild as a 24' deep, 36' long cottage using current footprint and the 8' long, 24' deep deeded limited common area. The current zoning setback requirement of 35' cannot be met. The current footprint is set approximately 9' from the roadway (Ms. Woolfson said that this was an estimation, before she and her son actually measured it) and approximately 4' from the town ROW. We have been informed that this footprint is grandfathered; the additional 8' x 24' plot may, or may not, directly abut the town's ROW. Although the attached 1983 plot plan shows the limited common area dotted line abuts the ROW the photographs do not support the plot plan line. Given that the current cottage is non-conforming and cannot be made conforming we request that the ZBA grant an exception for an additional 8' length of land that was deeded to the owner in 1983 when the condominium was established.

**The specific site is an appropriate location for such use:** the applicant wrote - *although current zoning requires a 35' setback from the road of the 11 total cottages that make up the Twin Tamarack condominium at least 4 cottages including 98 Campground Road are currently situated within 4-10' from the town's ROW. Campground Road itself has light traffic being used primarily by Twin Tamarack residents and residents of the Twin Tamarack Campground.*

It was noted the town maintains Campground Road. Mr. Hofling said his biggest concern is whether this proposed addition will go into the ROW.

**There is adequate area for safe and sanitary sewage disposal:** the

applicant wrote – *there is no additional bedrooms proposed; the cottage will tie directly in to the existing twin Tamarack condominium septic system as it currently does.*

**The use will not adversely affect the adjacent area:** the applicant wrote – *the proposed expansion, 8'x24', is on the east side of the cottage; no other cottages in line with 98 Campground Road on that side. Members of the condominium association approved the proposed construction in July 2018.*

The board noted that the association did not have a problem with the expansion.

**There will be no nuisance or hazard created:** the applicant wrote – *Campground Road has light traffic and sight lines of the roadway will not be affected negatively.*

**Adequate and appropriate facilities will be provided for the proper operation of the proposed use:** The applicant wrote – *Twin Tamarack Condominium provides septic and water through an artesian well. Electric and propane will be provided through local vendors as it is currently done.* Ms. Woolfson said they also have a dumpster maintained by the association.

**The use will not impair the aesthetic values exhibited by the surrounding neighborhood:** The applicant wrote – *the current cottage and proposed new construction are in a residential community and according to the condo declaration bylaws the exterior of the new cottage will match the other 10 cottages in the community.*

**The building or impermeable area will not exceed the maximum percentage of lot coverage in the applicable zoning district:** The applicant wrote – *the state of NH and the town of New Hampton approved the Twin Tamarack Condo Assn declaration and plot plan in 1983 as mentioned previously 8' by 24' limited common area was to 98 Campground Road at that time.*

Mr. Hofling made a motion, seconded by Ms. Karnis, to continue the hearing to a site visit on 11/10/18 at 9:00 am at 98 Campground Road, reconvening at the Town Office upstairs meeting room to deliberate. Vote was unanimous.

Ms. Woolfson pointed out that the original distances noted on the ZBA application were estimations based on the plot plan, but the photos submitted showed distances measured by herself and her son. She also said the notice stated it was a 2 bedroom cottage but it is actually a one bedroom and there is no intention to add a 2<sup>nd</sup> bedroom. Mrs. Vose said the 2 bedrooms were noted on the assessment card.

Vote was unanimous.

**MINUTES**

Ms. Karnis made a motion, seconded by Mr. Hofling, to approve the minutes of 7/11/18 as written. Vote was unanimous.

Minutes of 8/1/18 were held as only 2 of the members present were at that hearing.

**ADJOURNMENT**

Ms. Karnis made a motion, seconded by Mr. Hofling, to adjourn at 8:02 pm. Vote was unanimous.

Respectfully Submitted,

Pam Vose  
Administrative Assistant

DRAFT