

**Zoning Board of Adjustment
September 27, 2018 6:30 PM
Board of Selectmen's Room/Municipal Building
15 Sunapee Street/Newport, NH**

PRESENT: Melissa Saccento, Chairman; Jeffrey Kessler, BOS Representative; Ben Nelson; Tim Beard, Alternate

ABSENT MEMBERS: Virginia Irwin, Alternate, Beth Cassorla, David Lain, Vice Chairman; Scott McCoy, Alternate

VIDEOGRAPHER: Nancy Meyer, NCTV

STAFF PRESENT: Liz Emerson, Planning & Zoning Administrator

COMMUNITY MEMBERS PRESENT: Rodney Whipple

CALL TO ORDER: Chairman Saccento called the meeting of the ZBA to order at 6:30 p.m. and introduced the sitting Board members.

ADMINISTRATION: none

MINUTES: July 26, 2018

July 26, 2018

On a motion by Mr. Kessler, seconded by Mr. Nelson; *the Board voted to approve the minutes of the July 26, 2018 meeting as presented. The motion passed 4-0-0.*

Chairman Saccento reviewed the ZBA format for the applicants, abutters and public present.

NEW BUSINESS:

Case #1067: Robert Howard (Owner): request a Special Exception for Mixed Use as provided for in Article IV, Section 402 of the Zoning Ordinance to permit a Home Business of construction on a residential property. The property is identified as Map 112 Lot 047 and located at 100 Parkview Street in the Rural (R) and Single Family (R-1) Zoning Districts.

Chairman Saccento opened the hearing. She then acknowledged Ms. Emerson. Ms. Emerson stated there had been a revision to the wording of Case #1067. She directed the Board to the revised agenda for the correct wording and explanation.

Mr. Nelson asked if the property in question was in the Rural and R-1 Districts. He was told yes.

Chairman Saccento acknowledged Mr. Howard and asked that he present his case. She requested that he read his application into the record. He complied.

Mr. Kessler asked if his business was done in his home. He was told no. Mr. Kessler stated it was not really a home business. Mr. Howard concurred with his statement.

Chairman Saccento asked if his office was in his home. Mr. Howard stated that occasionally he would do some office work at home.

Mr. Kessler addressed the Chair and gave the definition of a home business as was indicated in the Newport Town Ordinances.

Ms. Emerson stated that the Case before them was for permission to store Mr. Howard's work trucks at his home.

Mr. Kessler addressed Ms. Emerson and gave her historical information on previous cases that were similar to Case #1067. He stated that it (parking trucks at a residence) was not allowed per the Ordinances.

There was a discussion among the Board members on the appropriateness and enforcement of the Ordinance.

Mr. Howard asked what Newport considered a commercial vehicle. Mr. Kessler explained the Ordinance. They then discussed what was permitted.

Mr. Howard stated he had one box work truck on his property. Chairman Saccento asked if materials were delivered to his property. Mr. Howard stated never.

Mr. Nelson stated there were residents all over town that did the same thing. If the Selectmen wanted Ms. Emerson to enforce the Ordinance –go for it. It would tax the TOPAZ office to enforce it.

There was a lengthy discussion on the case among the Board members and Ms. Emerson. Mr. Nelson stated he would prefer to have instances decided on a case by case basis. It will be a very worker unfriendly town if this is enforced, Mr. Nelson said.

The Board members concurred that Case #1067 should be researched further. On a motion by Mr. Nelson, seconded by Mr. Beard; ***the Board tabled Case #1067 to the October 25, 2018 ZBA meeting. The motion passed 4-0-0.***

Case #1068: Christopher Martin (Owner): requests a Variance from the terms of Article II Section 207 of the Zoning Ordinance to convert a single family residence into two units. The property is identified as Map 115 Lot 028 and is located at 88 Pine Street in the Single Family (R-1) Zoning District.

Chairman Saccento opened the hearing. She acknowledged Ms. Emerson. Ms. Emerson read her Administrative Review into the record. She stated that staff had no concerns with the application.

Chairman Saccento acknowledged Mr. Martin and asked that he present his case.

Mr. Chris Martin introduced himself and stated that his proposal is to convert a single family structure building into two units (apartments). He then read his application into the record.

Chairman Saccento asked if there were questions from the Board.

Mr. Kessler asked about egress and ingress from the building units in case of fire. Mr. Martin explained the steps he had taken and the proposed additional construction for the units to meet the fire codes. Mr. Kessler then stated that because it will be a conversion from single residence to two; a new Occupancy Permit would be required. Ms. Emerson concurred.

Chairman Saccento asked if the building could be rented to anyone. Mr. Martin stated yes.

There were no further questions or comments by the Board members.

Chairman Saccento acknowledged abutter Mr. Rodney Whipple.

Mr. Whipple spoke in support of Mr. Martin's proposal to convert the single family residence into two units.

In closing, Mr. Martin stated that he was not thinking of senior living or ADA accessibility with this lot. If he does, he will come back for a Special Exception.

Chairman Saccento then closed the meeting to the public. On a motion by Mr. Beard, seconded by Mr. Nelson; ***the Board voted to go into Deliberations for Case #1068. The motion passed 4-0-0.***

Variance Statement of Reasons and Discussion

Chairman Saccento asked for motions on questions one through five.

On a motion by Mr. Kessler, seconded by Mr. Nelson; that:
Granting the variance would not be contrary to the public interest because it increases the housing stock in the Town and it is located between a nursing home and school. There was no discussion on the motion. Chairman Saccento called for a vote. ***The motion passed 4-0-0.***

On a motion by Mr. Nelson, seconded by Mr. Beard; that:
The spirit of the ordinance would be observed because it won't alter the R-1 District. It is not visible; it is not going to put the density out of whack. Chairman Saccento stated that considering its location it is a good place to grant a variance or special exception. Chairman Saccento called for a vote. ***The motion passed 4-0-0.***

On a motion by Mr. Kessler, seconded by Mr. Nelson; that:
Granting the variance would do substantial justice because it would increase the housing stock. Chairman Saccento called for a vote. ***The motion passed 4-0-0.***

On a motion by Mr. Kessler, seconded by Chairman Saccento; that:
For the following reasons, the values of the surrounding properties would not be diminished because the character of the property and the building would not be changing. There was no discussion on the motion. She then called for a vote. ***The motion passed 4-0-0.***

Unnecessary hardship

Owing to special conditions of the property that distinguish it from other properties in the area, denial of the variance would result in unnecessary hardship because:

On a motion by Mr. Beard, seconded by Mr. Nelson; ***there is not a fair and substantial relationship between the general public purpose of the ordinance provision and the specific application of that provision to the property because the footprint of the building is not changing and will still have the appearance of a single family home.*** ***The motion passed 4-0-0.***

AND:

On a motion by Mr. Kessler, seconded by Chairman Saccento: ***that the proposed use is a reasonable one because it remains residential in use and character.*** Chairman Saccento called for a vote. ***The motion passed 4-0-0.***

On a motion by Mr. Kessler, seconded by Mr. Nelson: ***the Board voted to grant a Variance for Case #1068 from the terms of Article II Section 207 of the Zoning Ordinance to convert a single family residence into two units at 88 Pine Street in the Single Family (R-1) Zoning District.*** Chairman Saccento called for a vote. ***The motion passed 4-0-0.***

Chairman Saccento addressed Mr. Martin and stated that since there were no conditions she would sign the Notice of Decision at the meeting. Mr. Martin was given his Notice of Decision for Case #1068.

There being no further business, Chairman Saccento called for a vote to adjourn. ***The Board voted unanimously to adjourn at 7:17 p.m. The motion passed 4-0-0.***

Respectfully submitted,

Maura Stetson, Scribe

Approved: October XX, 2018