

**Zoning Board of Adjustment**  
**March 22, 2018 6:30 PM**  
**Board of Selectmen's Room/Municipal Building**  
**15 Sunapee Street/Newport, NH**

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**PRESENT:** Melissa Saccento Chairman; David Lain, Vice Chairman; Ben Nelson, Jeffrey Kessler, BOS Representative

**ABSENT MEMBERS:** Tim Beard, Alternate; Virginia Irwin, Alternate, Scott McCoy, Alternate; Beth Cassorla

**VIDEOGRAPHER:** Nancy Meyer, NCTV

**STAFF PRESENT:** Julie M. Magnuson, Planning & Zoning Administrator

**COMMUNITY MEMBERS PRESENT:** none

**CALL TO ORDER:** Chairman Saccento called the meeting of the ZBA to order at 6:32 p.m. and introduced the sitting Board members.

**ADMINISTRATION:** none

**MINUTES:** January 25, 2018

January 25, 2018

On a motion by Mr. Nelson, seconded by Mr. Kessler; *the Board voted to approve the minutes of the January 25, 2018 meeting with the following corrections: Page one, third paragraph from the bottom should read: "Mr. Fear sent his apology" and on page three in the memorialized motion the duplicate phrase, "...to permit the construction of a seasonal camp/home less for Case #1057"... should be deleted. The motion passed 4-0-0.*

Chairman Saccento reviewed the ZBA format for the applicants present.

**NEW BUSINESS:**

**Case #1058: Kimberly Reed and Jason Reed:** request a Variance from the terms of Article II Section 211.2 and Article IV Section 419.2 of the Zoning Ordinance to permit an Accessory Dwelling Unit (ADU) within an existing single family dwelling located in the Industrial District. The property is identified as Map 103 Lot 047 and is located at 499 Sunapee Street in the Industrial (I) Zoning District.

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

Chairman Saccento acknowledged Mrs. Kimberly Reed and asked that she read aloud the application into the record. Mrs. Reed began reading the whole application into the record.

Mr. Nelson addressed Ms. Magnuson and asked if the application could be entered into the minutes as presented instead of being read: it was very thorough and was five pages long.

There was a short discussion between the Board and Ms. Magnuson concerning reading the entire five pages of the application. Ms. Magnuson stated that if all the Zoning Board members had read the application, and they did not want the whole application read aloud, rather have it attached to the case minutes; that was fine. Ms. Magnuson stated that it was important to have discussions on each of the parts of the application. She recommended that as they went through Deliberations they discuss each prong.

Mr. Nelson made a motion *to enter the application into the minutes*. Mr. Kessler seconded. *The motion passed 4-0-0.*

Chairman Saccento asked the Board members if they had any questions. They asked the following:

- Mr. Nelson asked, for clarification where the main part of the home and where the ADU would be.
- Mr. Kessler asked if the ADU would be a studio apartment.

Mrs. Reed explained the building's make-up and showed the layout of the two areas to the ZBA members.

Parking was covered in the application: there were over two parking places for each dwelling unit. The dwelling was on Town water and sewer.

There was general discussion on the creation of the various Zoning Districts in Town. Mr. Kessler asked Ms. Magnuson to ask the Planning Board (PB) to look at the Zoning Districts as they were being used now and possibly add special exception language in some of the districts.

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

Chairman Saccento then closed the meeting to the public. On a motion by Mr. Kessler, seconded by Mr. Nelson; *the Board voted to go into Deliberations for Case 1058. The motion passed 4-0-0.*

Chairman Saccento explained the rules of Deliberation to the applicants.

#### **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 existing properties in the area are multi-family and this property has been multi-family in the past without any issues.* There was no further discussion. Chairman Saccento called for a vote. *The motion passed 4-0-0.*

On a motion by Mr. Nelson, seconded by Mr. Lain; that:

*The spirit of the ordinance would be observed because it does not violate the ordinance and it fits in with the character of the neighborhood.* There was general discussion on the question. Chairman Saccento called for a vote. *The motion passed 5-0-0.*

On a motion by Mr. Kessler, seconded by Mr. Nelson; that:

*Granting the variance would do substantial justice because similar properties in the area are multi-family.* There was no further discussion. 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 properties in the area are already multi-family.*** Chairman Saccento 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. Kessler, 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 there are other multi-family properties there.***

AND:

On a motion by Mr. Kessler, seconded by Mr. Nelson; ***that the proposed use is a reasonable one because it is in keeping with the nature of the properties in the neighborhood. The motion passed 4-0-0.***

There was a general discussion on this as well as how to state the memorialization. Ms. Magnuson suggested that the ZBA, in their motion, state that the floorplan of the proposed ADU appears to meet all the requirements of an ADU.

Chairman Saccento called for a motion to memorialize the decision of the ZBA to grant the variance. On a motion by Mr. Kessler, seconded by Mr. Nelson; ***the Board voted unanimously to grant a Variance for Case 1058 as presented and that we include as part of the minutes the application for variance for the case and that all requirements for an ADU have been met.*** Chairman Saccento called for a vote. ***The motion passed 4-0-0.***

The Chair and Board congratulated the Reeds on their granted variance. Ms. Magnuson addressed the Board and stated they did not have conditions (in their memorialization). Mr. Kessler stated that the condition was that the application will become part of the minutes.

Ms. Magnuson addressed the Reeds and stated that The Notice of Decision would be written within five (5) business days and signed by Chairman Saccento or her designee. Ms. Magnuson also explained to the Reeds that there was a 30 day appeal period for a Zoning decision.

There being no further business, on a motion by Mr. Nelson, seconded by Mr. Kessler; ***the Board voted to adjourn at 6:58 p.m. The motion passed 5-0-0.***

Respectfully submitted,

Maura Stetson, Scribe

Approved: April XX, 2018