

**Zoning Board of Adjustment
January 21, 2021 6:30 PM
Board of Selectmen's Room/Municipal Building
15 Sunapee Street/Newport, NH**

Remote Access:

Zoom.com - Meeting ID: 876 3450 7050 **Password:** 418786
+1 (929)-205-6099 US (audio only, long-distance fees may apply)

PRESENT BOS ROOM: Ben Nelson, Acting Chairman; Jeffrey Kessler, BOS Representative

PRESENT via ZOOM: Tim Beard

PRESENT via PHONE: no one

ABSENT MEMBERS: Scott McCoy, alternate

VIDEOGRAPHER: John Lunn, NCTV

STAFF PRESENT: Christina Donovan, Zoning Administrator

ABUTTERS PRESENT: none

COMMUNITY MEMBERS PRESENT: Scott MacLeay

CALL TO ORDER: Acting Chairman Nelson called the meeting of the ZBA to order at 6:32 p.m.

It was explained that due to the coronavirus the ZBA was holding their meeting pursuant to the Governor's Emergency Order #12. Individuals were allowed to participate in person at the BOS room, via telephone or via Zoom. All voting would be done by roll call vote as outlined in Emergency Order #12. Acting Chairman Nelson conducted a roll call of members attending the meeting.

ADMINISTRATION: Due to a conflict with a Board of Selectmen budget hearing the next Zoning Board of Adjustment hearing will be held on February 25, 2021 at 6:30 p.m.

MINUTES: February 20, 2020; May 21, 2020 and May 28, 2020 July 16, 2020; July 23, 2020
Chairman Nelson tabled all ZBA meeting minutes listed above to the February 25, 2021 ZBA meeting.

September 17, 2020

On a motion by Mr. Kessler, seconded by Mr. Beard; *the Board approved the minutes of the September 17, 2020 meeting as presented. The motion passed by roll call vote 3-0-0.*

NEW BUSINESS:

Case #1100 Ryan S. MacLeay (Owner): Request a Variance as provided for in Article II Section 207 of the Zoning Ordinance to permit the property becoming a two family dwelling. The property is identified as Map 108 Lot 043 and is located at 163 Cheney Street in the Residential (R-1) Zoning District.

Acting Chairman Nelson opened the public hearing.

Mr. Ryan S. MacLeay addressed the Board and explained what he was planning to do at the "Walker Family Home" that he had purchased. He was at the Zoning Board to request a variance to permit the property to become a two family apartment building. Mr. MacLeay gave the history of the home's use,

the improvements they have been doing and explained that it already is outfitted as a two family dwelling. His hearing was to officially change its use on paper. Mr. MacLeay read aloud his application to the Board.

Acting Chairman Nelson addressed Ms. Donovan and asked for her Administrative Review. Ms. Donovan complied with his request, stating there were no zoning violations and that the applicant would have to have four parking spaces.

There were no abutters present or on zoom.

Mr. Kessler asked if the applicant would be occupying one of the units. He was told no; he lived next door. Mr. Kessler addressed Ms. Donovan and asked how the variance request was different from an accessory dwelling unit (ADU). Ms. Donovan stated it was her understanding that ADUs were not to be used as rentals. If they were rented, there would be very little difference. She gave the requirements of an ADU.

Acting Chairman Nelson explained the previous use of the home and ADU in the building. His only concern was that four parking spaces were needed. Mr. MacLeay stated four parking spaces would be made.

There being no questions from the Board members, Acting Chairman Nelson closed the meeting to the public. On a motion by Mr. Kessler, seconded by Mr. Beard; ***the Board voted by roll call vote to go into Deliberations. The motion passed 3-0-0.***

Variance Statement of Reasons and Discussion

Acting Chairman Nelson asked for motions on prongs one through five (he mentioned the four parking spaces necessary).

On a motion by Mr. Kessler, seconded by Acting Chairman Nelson; that: ***Granting the variance would not be contrary to the public interest because there are other multi-family dwellings in the neighborhood.*** There was no discussion by the Board. Acting Chairman Nelson called for a roll call vote. ***The motion passed 3-0-0.***

On a motion by Mr. Kessler, seconded by Mr. Beard; that: ***The spirit of the ordinance would be observed because the property will remain a residential property.*** Acting Chairman Nelson called for a roll call vote. ***The motion passed 3-0-0.***

On a motion by Mr. Kessler, seconded by Mr. Beard; that: ***Granting the variance would do substantial justice because it allows the owner to get the full value of his property while maintaining it a residential property.*** Acting Chairman Nelson called for a roll call vote. ***The motion passed 3-0-0.***

On a motion by Mr. Kessler, seconded by Mr. Beard; that: ***The values of the surrounding properties would not be diminished because it remains residential and there are other multi-family homes on the street.*** Acting Chairman Kessler called for a roll call vote. ***The motion passed 3-0-0.***

Unnecessary hardship

Mr. Kessler made a motion:

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:

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

AND:

That the proposed use is a reasonable one because it maintains the residential character of the property. It was seconded by Mr. Beard. There was no discussion. Acting Chairman Nelson called for a roll call vote. ***The motion passed 3-0-0.***

Acting Chairman Nelson called for a motion to memorialize the decision of the ZBA to grant the variance. On a motion by Mr. Kessler, seconded by Mr. Beard; ***the Board voted to grant a Variance for Case #1100 as presented.*** In discussion, it was stated the subject of the number of parking spaces would be brought up with the building inspector. Acting Chairman Nelson called for a roll call vote. ***The motion passed 3-0-0.***

Acting Chairman Nelson and Mr. Kessler congratulated the applicant.

Zoning Administrator Donovan addressed Mr. MacLeay and stated the notice of decision would be ready within five business days.

Mr. Ryan MacLeay and Mr. Scott MacLeay thanked the Board for their time. They said the two apartments in the house would be rented and kept up, they lived next door and that this would be a long term commitment for them.

On a motion by Mr. Kessler, seconded by Acting Chairman Nelson; ***the Board voted to adjourn at 6:53 p.m. The motion passed 3-0-0.*** Acting Chairman Nelson stated the next ZBA meeting will be on Thursday, February 25, 2021 at 6:30 p.m.

Respectfully submitted,

Maura Stetson
Scribe

Approved: February XX, 2021