

**Zoning Board of Adjustment
February 28, 2019 6:30 PM
Board of Selectmen's Room/Municipal Building
15 Sunapee Street/Newport, NH**

PRESENT: Jeffrey Kessler, BOS Representative; Todd Fratzel, Alternate; Ben Nelson and Scott McCoy, Alternate

ABSENT MEMBERS: David Lain, Vice Chairman; Virginia Irwin, Alternate; Melissa Saccento, Chairman; Beth Cassorla, Tim Beard, Alternate

VIDEOGRAPHER: Nancy Meyer, NCTV

STAFF PRESENT: Liz Emerson, Zoning Administrator

COMMUNITY MEMBERS PRESENT: Eric Pollari

CALL TO ORDER: Acting Chairman Nelson called the meeting of the ZBA to order at 6:32 p.m. and introduced the sitting Board members. Mr. Todd Fratzel was appointed to sit for Mrs. Beth Cassorla. Mr. Scott McCoy was appointed to sit for Mr. David Lain.

ADMINISTRATION: none

MINUTES: On a motion by Mr. Kessler, seconded by Mr. McCoy; *the Board tabled the minutes of the December 27, 2019 meeting due to lack of a quorum from that meeting. The motion passed 4-0-0.*

Case #1073: William MacDonald (Owner): requests a Special Exception as provided for in Article II Section 206.2 of the Zoning Ordinance and specifically the provision to permit an accessory dwelling unit. The property is identified as Map 210 Lot 005 and is located at 281 Blueberry Ridge Road in the Rural (R) Zoning District.

Acting Chairman Nelson opened the hearing. He then acknowledged Ms. Emerson.

Ms. Emerson read her Administrative Review into the record. She stated the staff had no concerns with the application.

Acting Chairman Nelson addressed the applicants and public present and reviewed the ZBA format. Addressing Mrs. Sharon MacDonald he stated they would be informal; he asked her to explain what she and her husband were proposing.

Mrs. MacDonald gave an overview of their proposed plans to put an ADU over their existing garage.

Ms. Emerson stated there was room for a separate septic and not interfere with their well (that would be explored if Case #1073 was approved).

Mr. McCoy asked Mrs. MacDonald to explain her site plan and the size of the proposed accessory dwelling unit (ADU). She complied with his request.

After hearing her explanation, the ZBA members stated that the Case should be heard as a Variance, not a Special Exception. They explained the reasons to Mrs. MacDonald.

There was a discussion about whether to table the hearing and reschedule for a variance; they could not hear the request as a Variance because it had been noticed as a Special Exception.

The Board, Mrs. MacDonald and Ms. Emerson had a lengthy discussion on the proposed ADU. The Board members referred to the Zoning Ordinances concerning ADUs.

Mr. Kessler stated that the proposed building did not qualify as an ADU. In the Newport Ordinances an ADU had to be in or attached to a single family dwelling. Ms. Emerson stated she had consulted with Chairman Melissa Saccento. Ms. Emerson had felt it was an ADU and decided this case would be heard as an ADU. Mr. Kessler said the Newport Ordinance specifically stated an ADU would be within or attached.

Continuing, he said that the Case needed to be reheard as a Variance and at that time the size could be addressed.

There was further discussion by Board members about ADUs, when the Ordinance was adopted and other ADUs in existence in Town.

Reiterating, Mr. Kessler stated the ZBA had to hear the case as a Variance. At that time the size of the unit would be determined. After a short discussion, Acting Chairman Nelson addressed Mrs. MacDonald and stated that they would need to have another meeting.

Mrs. MacDonald addressed the ZBA and asked for the steps to take to apply for a Variance...Ms. Emerson will re-notice the abutters for a Variance.

Mr. Kessler explained that the ZBA could not discuss the proposed case because the ZBA could be held has prejudging the case they will have to vote on. Mr. Kessler offered her guidance to work with Ms. Emerson and listed items to focus on in her application.

Mrs. MacDonald addressed the Board and asked that they withdraw her application. She will resubmit an application for a Variance.

Addressing Ms. Emerson, she asked for the date of the next ZBA meeting. Acting Chairman Nelson stated that he would be willing to hold a special meeting for Case #1073. Due to noticing and a new application, a date of March 14, 2019 was set for the special hearing.

After a general discussion on how Mrs. MacDonald will proceed with the Variance application, Acting Chairman Nelson closed the hearing.

Case #1074: LaValley Building Supply (Owner) Larry Huot (Agent): requests a Special Exception as provided for in Article II Section 206.2 of the Zoning Ordinance and specifically the provision to permit uses of the Industrial Zone in the Rural Commercial Zone for a lumber yard (Storage and/or sales). The property is identified as Map 236 Lot 003 and is located near 1016 John Stark Highway in the Rural Commercial (RC) Zoning District.

Acting Chairman Nelson opened Case #1074.

Mr. McCoy asked why there were two different fact finding sheets for Case #1074. One worksheet had five questions, the other had three. Ms. Emerson explained.

For full transparency, Acting Chairman Nelson stated he was not an abutter, but owned land in the neighborhood. There was no concern with him sitting on the Board for Case #1074.

Acting Chairman Nelson then acknowledged Ms. Emerson.

Ms. Emerson read her Administrative Review into the record. She informed the ZBA members that LaValley Building Supply had applied for a similar Special Exception in 2007. The sitting Board had approved their request. The Zoning staff had no concerns. There was a state driveway currently in existence.

Acting Chairman Nelson addressed Mr. Larry Huot and asked what the applicant proposed. Mr. Huot explained the plans LaValley's had to display models of modular sheds. There would be appropriate signage. The site would be unmanned.

Mr. Kessler asked what the zoning was for the property. He was told Rural/Commercial.

Mr. Eric Pollari, abutter, stated he did not have a problem with the use, he was curious about the usage due to the zoning. Mr. Kessler explained that with a Special Exception LaValley's would be able to use the land as if it was an Industrial (I) Zone.

For full transparency, Mr. Fratzel stated that the company he worked for was working on the site. (*Mr. Huot stated that all negotiations with the company had been completed*). There was no concern with Mr. Fratzel sitting on the Board for Case #1074.

There was a short discussion by Mr. Huot and the Board on the sale of the modular sheds. Mr. Huot then stated that LaValley's had no plans to house lumber off site as was stated in the Administrative Review.

Ms. Emerson explained she had taken the wording as exactly written in the Newport's Industrial Zone Ordinance (for her review and the meeting).

There being no further questions from the public or Board members, Acting Chairman. Nelson ***moved to go into Deliberations.***

Zoning Board of Adjustment Special Exceptions-Mixed Use

Acting Chairman Nelson called for ZBA members to answer the Special Exception worksheet questions.

Standard A

A motion was made by Mr. Kessler ***that the selected site is an appropriate location for the proposed use because it is in keeping with adjacent properties.*** It was seconded by Mr. Fratzel. ***The motion passed 4-0-0.***

Standard B

Mr. McCoy moved ***that adequate and safe highway access is provided to the proposed use because there is an existing driveway that meets approved state (DOT) highway standards.*** It was seconded by Mr. Kessler. ***The motion passed 4-0-0.***

Standard C

Mr. Kessler moved *that adequate method of sewage disposal is available at the proposed site because no sewage will be created at the site.* It was seconded by Mr. McCoy. *The motion passed 4-0-0.*

Standard D

Mr. Kessler moved *the proposal will not be detrimental, hazardous or injurious to the neighborhood.* It was seconded by Mr. Fratzel. *The motion passed 4-0-0.*

Standard E

Mr. McCoy moved *that the proposed use is consistent with the spirit of the Ordinance and the intent of the Master Plan because it is in keeping with the spirit of the Ordinance and adjacent properties and businesses.* It was seconded by Mr. Fratzel. *The motion passed 4-0-0.*

On a motion by Mr. Kessler, seconded by Mr. Fratzel; *the Board voted to approve the Special Exception for Case #1074.* There was no discussion. *The motion passed 4-0-0.*

Ms. Emerson addressed Acting Chairman Nelson and requested that he sign the Notice of Decision (with no conditions) for Case #1074 at the February 28, 2019 meeting.

Mr. Huot addressed the Board and commended them for all they did to assist Mrs. MacDonald. He stated it is complimentary of the Town. The Board members thanked Mr. Huot.

Ms. Emerson addressed the applicant and stated he would receive the original Notice of Decision at the meeting. She would keep one copy in their case file in the Zoning Office.

On a motion by Mr. Kessler, seconded by Mr. McCoy; *the Board voted to adjourn at 7:19 p.m.* *The motion passed 4-0-0.*

Respectfully submitted,

Maura Stetson, Scribe

Approved on: March XX, 2019