

**Zoning Board of Adjustment**  
**March 14, 2019 6:30 PM**  
**Board of Selectmen's Room/Municipal Building**  
**15 Sunapee Street/Newport, NH**

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**PRESENT:** Melissa Saccento, Chairman; Jeffrey Kessler, BOS Representative; Ben Nelson, Scott McCoy, Alternate

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

**VIDEOGRAPHER:** Nancy Meyer, NCTV

**STAFF PRESENT:** Liz Emerson, 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. Mr. Scott McCoy was appointed to sit for Mr. David Lain.

**ADMINISTRATION:** none

**MINUTES:** December 27, 2018 & February 28, 2019

December 27, 2018

On a motion by Mr. Kessler, seconded by Mr. Nelson; *the Board voted to approve the minutes of the December 27, 2018 meeting as presented. The motion passed 3-0-1 (McCoy abstained).*

February 28, 2018

On a motion by Mr. Kessler, seconded by Mr. McCoy; *the Board voted to approve the minutes of the February 28, 2019 meeting with the following correction: page 1, last line in CALL TO ORDER, way should be was. There was a discussion by the Board members about the use of 'hearing' and 'case'. The motion passed 3-0-1 (Saccento abstained).*

**NEW BUSINESS:**

**Case #1075: William & Sharon MacDonald (Owners):** request a Variance from the terms of Article 419 Section 419.1 of the Zoning Ordinance to permit an accessory dwelling unit above a detached garage eliminating the adjoining interior door and continuity with the principal dwelling unit as a single-family dwelling. The property is identified as Map 210 Lot 005 and is located at 281 Blueberry Ridge Rd. in the Rural (R) Zoning District.

Chairman Saccento opened Case #1075.

Chairman Saccento acknowledged Mr. William MacDonald and Mrs. Sharon MacDonald and asked them to present their case. She stated since there was no objection to their Variance request by abutters or neighbors, the Board would conduct the hearing informally. They did not have to read their application verbatim, only summarize the Variance request.

There was a discussion on the summary of the case. Mr. Kessler explained that Mrs. MacDonald had already told the ZBA at the last meeting what she wanted to do (detached ADU). She had come in February requesting a Special Exception, which was incorrect for Case #1075. She was back in March

requesting a Variance. The ZBA members had already heard from the applicant concerning what she proposed to do. They now had to vote on a request for a variance using the information already provided to them.

Mrs. MacDonald addressed Chairman Saccento and stated that they wanted to put an apartment above their garage. It would have the same footprint (as the garage).

Chairman Saccento asked if they were planning a separate septic system for the proposed ADU. She was told nothing had been looked into; they were awaiting the ruling of the ZBA.

Chairman Saccento asked if there were further questions from the Board. There were none.

Chairman Saccento asked Ms. Emerson what the rationale was for an ADU to be attached. Ms. Emerson stated she did not know; she had not been able to find the pertinent Planning Board minutes which explained it. There was a discussion between Chairman Saccento, Board members and Ms. Emerson concerning the change.

Chairman Saccento asked Mrs. MacDonald how large her property lot was. She was told 3.1 acres.

There were several existing ADUs (similar to the one being requested) listed by ZBA members. There was a general discussion on the case.

Chairman Saccento stated the MacDonalds had plenty of parking area. They stated yes.

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 #1075. 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 Chairman Saccento; that:

***Granting the variance would not be contrary to the public interest because there is no change to the appearance of the property.*** Mr. McCoy stated he had a hard time not allowing this variance (Case #1075) considering there are similar ADUs in their neighborhood. Also, the reason for the change in ADUs (attached/ unattached) has not been found in recorded records. There was a discussion among the ZBA members.

Chairman Saccento called for a vote. ***The motion passed 4-0-0.***

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

***The spirit of the ordinance would be observed because there is no change to the character of the neighborhood.*** Board members concurred. Chairman Saccento called for a vote. ***The motion passed 4-0-0.***

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

***Granting the variance would do substantial justice because it will allow the property owners to maximize the potential of their property.*** There was no discussion on the motion. Chairman Saccento called for a vote. ***The motion passed 4-0-0.***

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

***For the following reasons, the values of the surrounding properties would not be diminished because it is out of sight from the area surrounding it.*** There was no discussion on the motion. 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 the character does not change (the property).***

AND:

On a motion by Mr. Kessler, seconded by Mr. Nelson; ***that the proposed use is a reasonable one because it maximizes the use of property by the property owner.*** Chairman Saccento called for a vote. ***The motion passed 4-0-0.***

Chairman Saccento stated there were no conditions. Addressing the Board she inquired as to whether the final motion should read “as presented”.

On a motion by Mr. Kessler, seconded by Mr. Nelson: ***the Board voted to grant a Variance for Case #1075.*** Mr. Kessler stated he did not see a need to state conditions (of any nature). They will need a building and occupancy permit. Ms. Emerson will make sure the MacDonalds do what is necessary. Chairman Saccento called for a vote. ***The motion passed 4-0-0.***

Chairman Saccento addressed the MacDonalds and stated their variance had been granted. Chairman Saccento signed the two Notices of Decision at the meeting. Mr. MacDonald took one for their records.

**Case #1076: William & Sharon MacDonald (Owners):** request a Variance from the terms of Article 419 Section 419.2 (D) of the Zoning Ordinance to permit an accessory dwelling unit exceeding 750 sq. ft. in habitable floor area. The property is identified as Map 210 Lot 005 and is located at 281 Blueberry Ridge Rd. in the Rural (R) Zoning District.

Chairman Saccento opened Case #1076.

Chairman Saccento acknowledged Mr. William MacDonald and Mrs. Sharon MacDonald. She again stated that there was no objection to their Variance request by abutters or neighbors the Board would conduct the hearing informally.

Mrs. MacDonald was asked for the size of their proposed detached ADU. She stated they would like to build a 24 ft. x 40 ft. ADU.

Mr. Nelson requested that the Board close the meeting to the public. On a motion by Mr. Nelson, seconded by Mr. Kessler; ***the Board voted to go into Deliberations for Case #1076. 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. Nelson, seconded by Mr. Kessler; that:

***Granting the variance would not be contrary to the public interest because granting the variance would not change the footprint of the building.*** There was no discussion on the motion. Chairman Saccento called for a vote. ***The motion passed 4-0-0.***

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

***The spirit of the ordinance would be observed because it is not changing the character of the neighborhood.*** Chairman Saccento called for a vote. ***The motion passed 4-0-0.***

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

***Granting the variance would do substantial justice because it will allow full use of the property by the owners.*** Chairman Saccento called for a vote. ***The motion passed 4-0-0.***

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

***For the following reasons, the values of the surrounding properties would not be diminished because it will not change the character of the property.*** There was no discussion on the motion. 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. McCoy, seconded by Mr. Kessler; ***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 it does not diminish or change the nature of the neighborhood.***

AND:

On a motion by Mr. Nelson, seconded by Chairman Saccento; ***that the proposed use is a reasonable one because the proposed variance works with the neighborhood.*** Chairman Saccento called for a vote (on both of the motions). ***The motion passed 4-0-0.***

Chairman Saccento asked for a motion to memorialize the Board's decision.

On a motion by Mr. Kessler, seconded by Mr. Nelson: ***the Board voted to grant a Variance for Case #1076.*** Chairman Saccento called for a vote. ***The motion passed 4-0-0.***

Chairman Saccento addressed the MacDonald's and stated their variance had been granted. Chairman Saccento signed the two Notices of Decision at the meeting. Mr. MacDonald took one for his records.

The Board congratulated the MacDonalds. The MacDonalds thanked the ZBA members.

On a motion by Mr. Nelson, seconded by Mr. Kessler; ***the Board voted to adjourn at 6:58 p.m.*** ***The motion passed 4-0-0.***

Respectfully submitted,

Maura Stetson, Scribe

Approved on: April XX, 2019

DRAFT