



Town of Merrimack, New Hampshire

Community Development Department

603 424-3531

6 Baboosic Lake Road

Fax 603 424-1408

Town Hall - Lower level - East Wing

www.merrimacknh.gov

Planning - Zoning - Economic Development - Conservation

Memorandum

Date: June 21, 2016

To: Fran L'Heureux, Chair, & Members, Zoning Board of Adjustment

From: Timothy J. Thompson, AICP, Community Development Director

Subject: **Richard Elliot (petitioner) and Michael and Rae Ann Dopson (owner) –**
Variance under Section 2.02.1(B)(2)(f) of the Zoning Ordinance to permit a second driveway for a proposed Accessory Dwelling Unit (ADU). The parcel is located at 4 Sunnydale Drive in the R (Residential) and Aquifer Conservation Districts. Tax Map 5D-3, Lot 099. Case # 2016-26.

The following information is provided to aid in your consideration of the above referenced case. Additional background and application materials are included in your packet.

Background:

Please refer to the associated memo regarding the requested Accessory Dwelling Unit Special Exception (both from last month, and updated for the June 29 meeting).

The petitioner is requesting a variance to allow a second driveway to be created along with the ADU, which is not allowed under the terms of the ordinance (where the ADU must not be distinguishable from the primary dwelling unit) in Section 2.02.1(B)(2)(f).

Standard of Review:

It is the burden of the Petitioner to demonstrate that the five requirements for the granting of a Variance under Section 2.02.1(B)(2)(f) of the Zoning Ordinance to permit a second driveway for a proposed ADU have been satisfied.

Please note that the Petitioner has indicated that the variance would be for the benefit of a family member with a recognized physical disability (cerebral palsy). Under RSA 674:33(V), the Board is permitted to treat the hardship criterion differently. See below:

*“any zoning board of adjustment may grant a variance from the terms of a zoning ordinance **without finding a hardship** arising from the condition of a premises subject to the ordinance, when reasonable accommodations are necessary to allow a person or persons with a recognized physical disability to reside in or regularly use the premises, provided that:*

(a) Any variance granted under this paragraph shall be in harmony with the general purpose and intent of the zoning ordinance.

(b) In granting any variance pursuant to this paragraph, the zoning board of adjustment

may provide, in a finding included in the variance, that the variance shall survive only so long as the particular person has a continuing need to use the premises.

Should the Board vote to grant the request for the variance, Staff recommends that approval be conditioned upon the granting of the Special Exception for the ADU that is the next item (Case #2016-22) on the agenda.

Ec: Richard Elliot, Petitioner
Michael and Rae Ann Dopson, Owners
Building Department Staff
Captain John Manuele, Merrimack Fire Department
Assessing Department

Cc: File
Correspondence