



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

MERRIMACK ZONING BOARD OF ADJUSTMENT

APPROVED MINUTES

WEDNESDAY, JANUARY 31, 2018

Members present: Patrick Dwyer, Richard Conescu, Lynn Christensen, and Alternates Leonard Worster (left 7:10 p.m.) and Kathleen Stroud.

Members absent: Fran L'Heureux and Tony Pellegrino.

Staff present: Planning and Zoning Administrator Robert Price, Assistant Planner Kellie Shamel, and Recording Secretary Zina Jordan.

1. Call to Order

Patrick Dwyer called the meeting to order at 7:00 p.m. and designated Leonard Worster and Kathleen Stroud to sit for Fran L'Heureux and Tony Pellegrino, respectively.

2. Roll Call

Patrick Dwyer led the pledge of allegiance and swore in members of the public. Richard Conescu read the preamble.

- 4. Justin Sleeper (petitioner/owner) –** Variances under Section 3.02 of the Zoning Ordinance to permit a three-family residence on a lot with approximately 16,901 s.f. of area whereas 120,000 s.f. is required; front setbacks of approximately 30 feet and 36 feet respectively whereas 50 feet is required; side setbacks of approximately 15 feet and 20 feet respectively whereas 50 feet is required; and a lot depth of approximately 120 feet whereas 200 feet is required. The parcel is located at 14 Hoyt Street in the R-4 (Residential) and Aquifer Conservation Districts. Tax Map 4D-4, Lot 025. Case #2018-01.

This agenda item was discussed before agenda item #3.

Justin Sleeper, 14 Hoyt Street, owns a home that obtained a Special Exception for an Accessory Dwelling Unit (ADU), which means 2 residential units (the primary dwelling and the ADU) are allowed currently on the lot. He wants to add a third dwelling unit, which would nullify the ADU and create a multi-family dwelling. He was just informed by the Fire Marshal that a multi-family dwelling requires a sprinkler system, whereas a two-family dwelling does not. Justin Sleeper now prefers to create a duplex. Robert Price informed him that he would not be able to revise his current application at the table. He would need to withdraw and file a separate application.

At the applicant's request, the Board voted 5-0-0 to continue this item to February 28, 2018, at 7:00 p.m., in the Matthew Thornton Meeting Room, on a motion made by Patrick Dwyer and seconded by Lynn Christensen.

- 3. David Paul and Toni Paul** - Request for Re-Hearing regarding case #2017-34, in which the Board denied (by failure to obtain 3 votes in favor) an Appeal of Administrative Decision as per the requirements of RSA 674:41.

This agenda item was discussed after agenda item #4.

Leonard Worster recused himself from discussing and voting on this item and left the meeting at 7:10 p.m.

Robert Price explained that, even though there are only four voting members present tonight, Community Development Director Tim Thompson advised that per State Statute, the Board must legally act on the request for re-hearing tonight.

Richard Conescu said that much of what Attorney Mitchell stated in his January 25, 2018, letter was discussed at the previous meeting.

Lynn Christensen said the letter contains more information about the easement that makes a Re-Hearing reasonable. The letter shows that the easement does meet the guidelines of the Statute.

Richard Conescu said that calling the road an easement changes nothing.

Lynn Christensen said that staff's decision was based on the fact that the parcel does not have frontage on a Class V or better roadway, in accordance with RSA 674:41. The Zoning Board of Adjustment (ZBA) did not know whether it met the criteria, so it could not grant an appeal of the Administrative Decision. The applicant has now provided new information showing that which wasn't clear to the Board at the initial hearing.

The Board voted 4-0-0 to grant a Re-Hearing, on a motion made by Lynn Christensen and seconded by Kathleen Stroud.

6. Approval of Minutes – December 27, 2017

This agenda item was discussed before agenda item #5.

The minutes of December 27, 2017, were approved as submitted, by a vote of 4-0-0, on a motion made by Lynn Christensen and seconded by Richard Conescu.

5. Discussion/possible action regarding other items of concern

This agenda item was discussed after agenda item #6.

Robert Price stated that Legal Counsel advises that, to make the record clear, the ZBA should vote on a motion to approve an agenda item even if it knows the item will fail, then vote on a motion to deny it with specific reasons identified.

7. Adjourn

The meeting was adjourned at 7:18 p.m., by a vote of 4-0-0, on a motion made by Lynn Christensen and seconded by Richard Conescu.