

ZONING BOARD OF ADJUSTMENT PUBLIC HEARING AND MEETING  
October 10, 2006

A public hearing of the Zoning Board of Adjustment was held on Tuesday, October 10, 2006 at 6:30 PM in the Auditorium at City Hall.

Sean Duffy, Chair, conducted the meeting.

Members present were: Sean Duffy, Chair  
Jack Currier, Vice Chair  
Normand Tremblay  
Rob Shaw  
Carter Falk, Deputy Planning Manager/Zoning

Mr. Currier explained the Board's procedures, including the points of law required for applicants to address relative to variances and special exceptions. Mr. Currier explained how testimony will be given by applicants, those speaking in favor or in opposition to each request, as stated in the Zoning Board of Adjustment (ZBA) By-laws. Mr. Currier also explained procedures involving the timing light.

**Case #5 - Riverwalk Cakery and Coffee House, requested to postpone their case to the first meeting in November (November 8, 2006).**

1. **Donna J. Mayo & Duane H. Morton (Owners) 36 Watersedge Drive (Sheet H Lot 201) requesting variance to encroach 8 feet into the 30 foot rear yard setback to add an 8'x25' deck addition. R18 (Cluster) Zone.**

Voting on this Case:

Sean Duffy  
Jack Currier  
Normand Tremblay  
Rob Shaw

Duane Morton and Donna Mayo, 36 Watersedge Drive, Nashua, NH. Mr. Morton described how they wish to extend their deck to make it more useable. Mr. Morton, with assistance from Mr. Duffy, explained how they meet the variance points of law.

**SPEAKING IN FAVOR:**

Letter read into record from Craig Yankes, 38 Watersedge Drive.

**SPEAKING IN OPPOSITION OR WITH CONCERNS:**

No one.

**MOTION** by Mr. Duffy to grant the variance to encroach 8 feet into the 30 foot rear yard setback to add an 8'x25' deck addition. Mr. Duffy stated that there is a special condition on the property is that there is a significant amount of conservation land is in common to the rear yard, and there is no excessive amount of accessory uses along this area, it is a reasonable use in that the incursion leaves greater than 50% of the open space remaining in the rear yard setback, the applicant has no other reasonable feasible method to pursue, other than the reasonable extension, which is a slight addition into an existing structure that has been in place for greater than five years. Mr. Duffy stated that it is within the spirit and intent of the ordinance that a reasonable variance be granted because of the cluster development is not exceeded through excessive amount of intensive uses. He stated that it will not adversely affect the surrounding parcels, in fact, the direct abutter is in support of the proposal. Mr. Duffy stated that it is not contrary to the public interest, and substantial justice will be served in that the applicant will have reasonable use of the deck.

**SECONDED** by Mr. Shaw.

**MOTION CARRIED UNANIMOUSLY 4-0.**

2. Henry J. & Anita M. Lochhead (Owners) Thomas W. & Louise E. Dixon (Applicants) 55 Farmington Road (Sheet A Lot 262) requesting the following: 1) special exception to allow an accessory (in-law) dwelling unit; and 2) variance to exceed maximum accessory dwelling unit area, 700 sq.ft allowed - 790 sq.ft proposed. R9 Zone.

Voting on this Case:

Sean Duffy  
Jack Currier  
Normand Tremblay  
Rob Shaw

Thomas Dixon, 45 Dogwood Drive, Nashua, NH. Mr. Dixon described the house and its physical characteristics. He showed pictures of the property to the Board. Mr. Dixon went over the points of law for both the special exception and the variance. Discussion ensued between the applicant and the Board. Mr. Dixon explained that they are requesting to exceed the maximum 700 square foot size to the boiler and a very large fireplace.

**SPEAKING IN FAVOR:**

No One.

**SPEAKING IN OPPOSITION OR WITH CONCERNS:**

No One.

**MOTION** by Mr. Tremblay to grant the special exception to allow an accessory (in-law) dwelling unit. Mr. Tremblay stated that it is listed in the Table of Uses, Section 16-61. He stated that per testimony, it will not create any undue traffic congestion or unduly impair pedestrian safety. Mr. Tremblay stated that it will not overload public water, drainage or sewer or other municipal systems. The special regulations are substantially fulfilled, they exceed the 700 square foot limitation, but it is clearly understood why, due to how the building is designed, and it will not impair the integrity or be out of character with the neighborhood or be detrimental to the health, morals or welfare of residents.

**SECONDED** by Mr. Currier.

**MOTION** BY Mr. Tremblay to grant the area variance to exceed the maximum accessory dwelling unit area of 700 square feet, 790 square feet proposed. Mr. Tremblay stated that the area variance is needed to enable the applicants proposed use of the property, given the special conditions of the property, and the benefit sought by the applicant cannot be achieved by some other method reasonably feasible for the applicant to pursue other than an area variance. Mr. Tremblay stated that they tried to work around the extra 90 square feet, but the limitations of the building preclude those options. He stated that it is within the spirit and intent of the ordinance, it will not adversely affect the property values of surrounding parcels, it is not contrary to the public interest, and substantial justice is served.

**SECONDED** by Mr. Currier.

**MOTION CARRIED UNANIMOUSLY 4-0.**

3. **Eric P. & Suzanne M. Leedberg (Owners) 29 Richmond Street (Sheet F Lot 276) requesting to amend a special condition from a variance granted by the ZBA on 8-22-06 for a 22 foot long garage - to be increased to 26 feet in length. R9 Zone.**

Voting on this Case:

Sean Duffy  
Jack Currier  
Normand Tremblay  
Rob Shaw

Eric Leedberg, 29 Richmond Street. Mr. Leedberg stated that at the August 22, 2006 meeting, he was granted two variances relative to a detached garage. After further investigation, the 22 foot length was found to not be acceptable for his needs. He said he is requesting a 26 foot length instead. Discussion ensued between Mr. Leedberg and the Board.

**SPEAKING IN FAVOR:**

No One.

**SPEAKING IN OPPOSITION OR WITH CONCERNS:**

No One.

**MOTION** by Mr. Shaw to grant the request to amend the special condition to allow a 26 foot long garage. Mr. Shaw stated that this will allow the applicant to use the property given the special conditions of the property, and this has been reviewed, and despite the original request of 28 feet, upon further analysis by the applicant that indicated that 22 feet was not going to be a good or useful size, and 26 feet will accommodate their needs. Mr. Shaw stated that the request is within the spirit and intent of the ordinance, there is no indication that there will be any adverse impact on surrounding properties, it is within the public interest, and substantial justice is served.

**SECONDED** by Mr. Currier.

**MOTION CARRIED UNANIMOUSLY 4-0.**

4. Ernest J. & Constance I. Gagnon (Owners) Gary Flaherty (Applicant) 49 Buckmeadow Road (Sheet C Lot 18) requesting special exception to work within the prime wetland and wetland buffer to restore and enhance disturbed wetland area to satisfy a NHDES Administrative Order. R40 Zone.

Voting on this Case:

Sean Duffy  
Jack Currier  
Normand Tremblay  
Rob Shaw

Gary Flaherty, 335 Broad Street, Hollis, NH. Mr. Flaherty stated that he is representing the Gagnon's to work within the prime wetland and wetland buffer. Mr. Flaherty stated that there is approximately 7,000 square feet that is involved, and he is working with the State DES. Mr. Flaherty described the restoration plan that is proposed. Discussion ensued between the applicant and the Board.

**SPEAKING IN FAVOR:**

Madeline LaFlamme, 55 Buckmeadow Road  
Ernest Gagnon, 49 Buckmeadow Road

**SPEAKING IN OPPOSITION OR WITH CONCERNS:**

No one.

**MOTION** by Mr. Tremblay to grant the special exception to satisfy a DES Administrative Order. It is listed in the Table of Uses, it will not create undue traffic congestion or impair pedestrian safety, nor will it overload public water, drainage or sewer or other municipal systems, actually it will enhance them in this area. Mr. Tremblay stated that the special regulations are fulfilled, and the request will not impair the integrity or be out of character with neighborhood or be detrimental to health, morals or welfare of residents. The nine wetland special exception conditions dated October 2, 2006 are met, with one addition, to Item #4, where the berm shall be checked quarterly for two years, with a copy going to the Conservation Commission.

**SECONDED** by Mr. Duffy.

**MOTION CARRIED UNANIMOUSLY 4-0.**

5. 28-34 Railroad Square, LLC (Owner) Riverwalk Cakery and Coffee House (Applicant) 35 Railroad Square (Sheet 43 Lot 33) appealing the decision of the administrative officer relative to the erection of a temporary advertising banner. D-1/MU Zone.

**POSTPONED TO THE NOVEMBER 8, 2006 MEETING.**

**REQUEST FOR REHEARING:**

**"L" West Hollis Street [AHEPA].**

The Board discussed the rehearing request at length. It appeared that the vote would be 2-2, and to be fair to everyone involved, the Board stated that the fifth member is key in the voting, to allow for a consensus of three affirmative votes.

**MOTION** by Mr. Currier to table the rehearing request, due to a "straw poll" indicating a 2-2 vote, to be fair to the landowner and everyone involved, to the October 24, 2006 meeting.

**SECONDED** by Mr. Shaw.

**MOTION CARRIED UNANIMOUSLY 4-0.**

**MINUTES:**

None.

**REGIONAL IMPACT:**

The agenda for the next meeting was not available.

**ADJOURNMENT:**

Mr. Duffy called the meeting closed at 8:22 p.m.

Jack Currier  
Acting Clerk

CF  
Taped Hearing