

**FRANKLIN ZONING BOARD
REGULAR MEETING AND PUBLIC HEARING
CITY COUNCIL CHAMBERS- CITY HALL
Wednesday, March 5th, 2014 at 7:00 p.m.**

MINUTES

Call to Order: The meeting was called to order at 7:05 p.m.

- **Salute to the Flag**
- **Roll Call**

Present: Kirk Johnston, Kathlene Fleckenstein, Donna Tully, and Donald Gagnon and Planning and Zoning Administrator Richard Lewis.

Absent: Sandra Hodgdon.

- **Approval of Minutes: December 4th, 2013 Zoning Board Meeting**

MOTION: Member Fleckenstein moved and Member Johnston seconded to approve the minutes of the December 4th, 2013 Zoning Board regular meeting. All were in favor and the motion passed.

Old Business: None.

New Business

- **Z14-01 and Z14-02:** Tamara L. Colpack, Owner/Applicant, request a Special Exception for a family apartment and a Variance from Zoning Section 305-29.8.I(2) to allow the proposed living area (1029 square feet) of the family apartment, to exceed the maximum of 720 square feet, on property located at 20 Ridge Farm Lane, Tax Map/Lot # 072-006-00, LP Zone (Lake Protection District) and C Zone (Conservation District), New Map #'s G5 and G6.

Tamara Colpack was present to speak. She stated the apartment would be placed in the existing basement. The footprint of the house is not changing. They will retain some space in the basement for storage. The property is located on Ridge Farm Lane, which is near Webster Lake and off of Lake Shore Drive. The house is 3000' from the roadway. The house is 3000 square feet. The lot is 5.5 acres.

When the house was built in 2006-2007 it was planned that in the future a family apartment would be put in the house for her parents. She stated the septic is already approved for a 4 bedroom or 3 bedroom house and studio apartment. The house is currently 3 bedrooms.

She stated she is requesting 1029 square feet, as her father is handicapped and this would help to provide accessibility. You cannot see the house from the road and she stated her only abutter is her brother and sister in law.

Member Gagnon asked if the footprint would be changing and Ms. Colpack stated it would not be. She stated the septic was put in when the house was built in 2006 and was for 3 bedrooms and the studio apartment and the home was also plumbed when it was built. She stated the only thing changing is the inside of the basement.

Member Fleckenstein asked if the basement is just rough now and Ms. Colpack stated that it is cement. She stated the apartment will be built for them, to have them close by as they age, and won't be rented at any time.

Richard Lewis then asked about the entrance to the family apartment. Ms. Colpack stated the front of the house faces the roadway and when you pull up the driveway you are actually driving into the back of the house. The entrance to the apartment would be on the front of the house and a driveway would wrap around the house for her parents so they could enter on the same level.

Member Gagnon asked who draws up the restrictive covenant. Dick indicated the office does and that the applicant would pick up the paperwork and register it at Merrimack County Registry of Deeds.

Richard Lewis stated that there have been one or two similar requests within the last few years and based on the need for handicap accessibility he supports the change from 720 square feet to 1029 square feet.

Public Comment: None.

Board Discussion

Member Gagnon stated that as they are not changing the footprint and due to the handicap accessibility the more room is needed. He stated there will be no addition and the septic is already in place.

MOTION: Member Johnston moved and Member Fleckenstein seconded that the Zoning Board of Adjustment approve the variance application request [Z14-02], by Tamara L. Colpack, Owner/Applicant, for a Variance from Section 305-29.8(I.), Family Apartments, as the size of the apartment is proposed to be 1029 sq. ft. and the requirements allow for a maximum size of 720 sq. ft. The property is identified as 20 Ridge Farm Lane, Tax Map/Lot # 072-006-00, New Map # G5/G6, LP Zone (Lake Protection District). The Board finds that the application request meets the tests and criteria necessary for the granting of a Variance in that:

1. **The Variance will not be contrary to the Public Interest and the Spirit of the Ordinance is observed** due to the facts that: family apartments are allowed uses through the Special Exception process; the proposed design is that the apartment will be constructed within the existing basement and will maintain the look and character of a single family structure; and, the family apartment area is designed so that it can be merged with the primary structure at the point in time when the apartment is no longer needed.
2. **Substantial Justice is done** due to the fact that the approval will allow the extended family to continue to reside as a larger family unit in a location that accommodates the single family home and the family apartment.
3. **The values of the Surrounding Properties are not diminished** due to the fact that the exterior of the existing family apartment will not change and will maintain the look of a single family home, which is an allowed use in this zoning district.
4. **Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship:**

Unnecessary hardship mean that, owing to the special conditions of the property that distinguish it from other properties in the area, then: i) No fair and substantial relationship exists between the general purpose of the ordinance provision and the specific application of that provision to the property; and ii) the proposed use is a reasonable one. There is no fair relationship between the language of the ordinance and the application of the ordinance to the property since the family apartment will be designed so the character is consistent with a single family home, which is an allowed use. The proposed use is a reasonable one since, again, the layout and character of the family apartment will not be different than a single family home without the apartment.

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MOTION: Member Johnston moved and Member Fleckenstein seconded that the Zoning Board of Adjustment approve the Special exception application request [Z13-01], by Tamara L. Colpack, Owner/Applicant, for a Special Exception (per section 305-13. Permitted Uses, Special Exceptions and Special Use permits) for a family apartment. The property is identified as 20 Ridge Farm Lane, Tax Map/Lot # 072-006-00, New Map # G5/G6, LP Zone (Lake Protection District). The Board finds that the application request meets the tests and criteria necessary for the granting of a Special Exception in that:

- a. Since the exterior of the existing structure will not change, maintaining the look and character of a single family home, which is allowed in this zoning district, and the family apartment will be constructed in the existing basement, which is an appropriate location of the proposed family apartment.
- b. It will not be detrimental injurious, obnoxious, or offensive to the neighborhood since the property cannot be seen from the surrounding properties and the lot is accessed by a shared driveway with the owners brother.
- c. Since the property will basically function as a single family house lot, there will not be any traffic concerns and there will be adequate facilities to accommodate the proposed house and family apartment, as the house was constructed in 2007 and the approved septic system is for a single family home and a studio apartment.
- d. All of the other Special Exception criteria are satisfied, thus the spirit of the ordinance is achieved and maintained and the intent of the Master Plan is also achieved.

The Variance and Special Exception approvals are subject to the following conditions:

1. The applicant shall prepare a Restrictive Covenant outlining the occupancy requirements of the family apartment. A draft of this document shall be submitted to the Planning Office for review and approval prior to recording the document. The language of the Covenant shall contain the verbiage in the Conditions 2 and 3, below
2. If the house is sold, then the permit for the family apartment shall cease. If the new purchaser of the house wants to continue the apartment in conformance with all conditions and regulations contained in this Ordinance, then he/she must re-apply for a permit within 6 months of the purchase of the house.
3. If the person[s] for whom the apartment was permitted and created vacates the family apartment then the permit shall cease.
4. The applicant or their designee shall obtain a building permit for the proposed work and a Certificate of Occupancy once the work is completed.

- 5. All other criteria for a Family Apartment shall be achieved and demonstrated to the Planning Administrator prior to the issuance of a building permit for the family apartment section of the house.**

All were in favor and the motion passed.

Planner's Update

Richard Lewis stated that the Planning Board workshop meeting for the Master Plan Vision Section is Wednesday March 12, 2014 at 7:00 p.m. Chair Tully asked if this would be like the last master plan update and Richard stated that it would. That he would be giving a presentation and then getting some feedback from the public.

Other Business

After a brief discussion the board indicated that they would do nominations for Chair and Vice Chair this evening.

Member Gagnon nominated Dona Tully as Chair and Kathleen Fleckenstein seconded the nomination. Donna Tully accepted the nomination and all were in favor. There were no further nominations. Member Tully is now Chair.

Chair Tully nominated Don Gagnon as Vice Chair and Kathleen Fleckenstein seconded the nomination. Don Gagnon accepted the nomination and all were in favor. There were no further nominations. Member Gagnon is now Vice Chair.

Public Comment: None.

Adjournment

MOTION: Member Johnston moved and Member Fleckenstein seconded to adjourn the March 5th, 2014 meeting of the Zoning Board of Adjustment, at 7:21 p.m. All were in favor and the motion passed.

Respectfully submitted,

Angela M. Carey
Planning and Zoning Assistant