

PRESENT: Todd Santora, Chairman; Charlyn Brown, Vice-Chairman; Lisa Brown-Kucharski, Abby Tonry, Shawn Hanson, Members; Andy Brubaker, Alternate; Glenn Coppelman, Circuit Rider Planner; Mark Sikorski, Building Inspector; Susan Ayer, Secretary

ABSENT: Greg Parish, Member; Jim Ziolkowski, Selectmen's Representative

CALL TO ORDER

The Chairman called the meeting to order at 7:02 PM and named A. Brubaker a voting member for this meeting in the absence of G. Parish.

PUBLIC HEARING: CASE #17-01-01: Application from Crawford Building Electrical LLC for Final Public Hearing for Conditional Use Permit – Accessory Dwelling Unit/Detached, for property located at 31 Victoria Drive, Map 6, Lot 41-13.

Kevin Crawford of Crawford Building Electrical, LLC, was present to discuss the application for the property owners, Kevin and Karen Bark.

A. Tonry informed the applicant that she is an abutter to the property and offered to step down for the hearing of his case. K. Crawford said he has no objection to A. Tonry voting on the application.

K. Crawford said he had nothing to add to the written application and plans before the Board. The Chairman asked the Building Inspector if he had any comments. M. Sikorski said that he is in full agreement with the comments offered in G. Coppelman's memorandum.

MOTION: To accept jurisdiction of the application as complete.

MOTION: C. Brown

SECOND: L. Brown-Kucharski

UNANIMOUS

T. Santora brought the Board's attention to item #2 in G. Coppelman's report, which advised them to note that this proposal is for a new structure on the lot designed to be a detached Accessory Dwelling Unit (ADU), and to reconcile this with Article III, Section 7.2.1 of the Zoning Ordinance, which reads, "utilizes an accessory use building (i.e., garage or barn)." T. Santora asked K. Crawford why he is not using the existing barn on the property for the ADU. K. Crawford said that the owner would like to put horses back in the barn. In discussion, it was determined that Section 7.2.1 does not specify that the ADU must be an existing building. However, 7.2.10 specifies that detached ADUs "shall match the character of the primary residential use located on the lot." Board members expressed the opinion that the design submitted does not match the residence or the barn on the property. K. Crawford agreed and said that the finished building will be embellished to blend with the property, and that the architect's plan addresses mainly the interior. He said the exterior depicted is not the way he would finish it, and is planning on Azak trim and different siding. He said the owner likes a barn type appearance and he favors a weathered look to match the barn.

Asked about the fact that the applicants currently reside in Texas, K. Crawford said that Karen Bark's family is in Hampton Falls and owns Wakeda campground; she is ill and wishes to come back to live on the property at Victoria Drive. The house is currently rented, but once the tenants leave the plan is for Karen's daughter to reside in the house and the Barks to live in the accessory unit. T. Santora said that one requirement for an ADU is that the owner must live on the premises, in either the main home or the ADU.

C. Brown said that she was troubled by the fact that the property owner is requesting an ADU for property she does not currently reside at; A. Brubaker agreed, saying the Board would be approving a project that does not currently conform to the Ordinance. There was discussion of this point; K. Crawford said that K. Bark needs the unit to be built before she can return as a permanent resident, as she can't live on the property alone due to her illness. T. Santora said that as the certificate of occupancy could not be issued if the owner did not reside on the property, he felt this issue is not a concern. Asked how the Town could verify residence, M. Sikorski said that the tax card and tax payments, driving license and mailing address are ways to verify residency. It was noted that if the property is sold, new owners would need to abide by the Ordinance as well.

Discussion then took place on G. Coppelman's note #3, which pointed out that this ADU is proposed at a living area size of 713 square feet (sf), which exceeds the Town's current limit of 650 sf. The Public Hearing for the new 750 sf limit has taken place and therefore the new limit is in effect, but still needs to be voted on in March. G. Coppelman suggested that if the plan is approved, the Board should consider making it conditional based on positive outcome of the Warrant Article vote.

It was identified that should the Warrant Article fail, the Town would still need to be in compliance with the new State statute which will prevent towns from limiting an ADU to less than 750 sf of living space. This statute goes into effect on June 1, 2017.

S. Hanson said that in reviewing the plan, his calculation of the living space square footage came to well over 750 sf. He said that if the three season room is counted as living space, he finds the total to be 873 sf; without it, 760 sf.

There was a lengthy discussion of what is to be counted as living space, whether to include the three season room, entry and the utility room, and how the architect arrived at his total. K. Crawford said that only heated areas are to be counted as living space, and the 3 season room, entry and utility room are not heated. He also said the three season room is to have screens, not glass windows. In addition, it was identified that the architect measured inside walls rather than outside.

Ways in which to reduce the living space to be in compliance were brought forward by the applicant, including making the entry part of the garage by removing the fire door, making the three season room a porch (K. Crawford said that as-is, the room does not include studded outer walls, only screens), and moving the garage wall. K. Crawford said that he will make sure the dimensions are counted correctly.

C. Brown expressed concern that no matter what the three season room/screen porch looks like now, it would be very easy for the current owner or a future owner to enclose it and use it as living space.

T. Santora opened the meeting to public comment.

Dan Welch of 27 Victoria Drive identified himself as an abutter and said he had an objection to the project because it looks like another house on the property, and he did not like the design. He also said that there had been a problem in the past with the vacant house being broken into and inhabited by the people who had broken in, and he worried that this could happen again if the property is sold and is vacant for any amount of time. It was determined that Mr. Welch would be able to see the new building from his property.

The question of the property becoming rental property was raised, and C. Brown said that if sold, the same rules apply; the owner would need to occupy one of the units as a full-time residence. Complaints about violations can be brought to the Building Inspector.

The Chairman closed the public comment portion of the hearing.

T. Santora said he felt the applicant should be encouraged to ask for a continuance and come back with a plan more in compliance with the size ordinance as well as more in conformity with the barn and the neighborhood.

Board members reiterated their concerns with the size, the possibility that living area can be expanded into the three season room, and the appearance of the building.

K. Crawford offered solutions and repeated that the finished product would not be like what is shown. He said with his time constraints, if the case is continued he would not be able to build the project.

A Tonry suggested that the unit could be built as a workshop and made into an ADU after the fact.

T. Santora said that the Board will need to either approve the plan with significant contingencies, or allow a continuance. He polled the Board on their preference, and the majority preferred that the case be continued to allow for plans to be submitted that reflect what will actually be built.

K. Crawford said he did not think he would be able to come back as he will not have time to get the project done.

G. Coppelman said the options are to withdraw, deny without prejudice, or continue.

In order to allow the possibility of going forward with the project without having to re-apply, K. Crawford asked the Board to grant him a continuance for 30 days.

MOTION: To grant the applicant's request for a continuance of Case # 17-01-01 until February 28 at 7:00 PM.

MOTION: S. Hanson

SECOND: A. Brubaker

UNANIMOUS

REVIEW AND APPROVAL OF PRIOR MEETING MINUTES: December 27, 2016

C. Brown asked for a correction to the second to last paragraph on page one, to change “C. Brown noted that this is similar to the Town’s aquifer protection ordinances in the Master Plan” to “C. Brown noted that this is similar to the Town’s aquifer protection ordinances *and to recommendations in the Master Plan.*”

MOTION: To approve the minutes of December 27, 2016, as amended.

MOTION: C. Brown

SECOND: S. Hanson

5 IN FAVOR; 1 ABSTENTION; PASSED

COMMUNICATIONS TO BOARD MEMBERS

T. Santora brought the Board’s attention to a workshop at the 34th Annual Farm and Forest Expo to be held on February 17. He said that is an all-day presentation on the topic of farming and local land use regulation, which is relevant to Hampton Falls because of recent work to define Agritourism. T. Santora plans to attend and members who wish to carpool should contact him.

C. Brown brought the most recent issues of Great Bay Matters and Supply Lines for the Source, and left them with the Secretary for others to borrow if they wish.

S. Hanson informed the Board that Wetlands training will take place in Greenland on March 8 from 3:30 until 5:30 PM. This will consist of a scientist giving a presentation on wetland protection. S. Hanson will give the information to the Secretary to distribute via email.

S. Hanson also reported that the Town is working on getting an easement on a large piece of property. One required step is to create a Right of Way to access the property, which is landlocked, and will need to involve the Planning Board and Conservation Commission.

OTHER BUSINESS

DISCUSSION RE: APPOINTMENT OF ALTERNATE MEMBER

T. Santora said that a resident has applied to be an alternate member of both the ZBA and the Planning Board. The resident, Alex Dittami, has been appointed to the ZBA as an alternate member already, and T. Santora said he feels it is not fair to an applicant to face the same person on two different boards if they have to apply to both. He has spoken to A. Dittami and will be talking to another person who may be interested in serving before making a decision about appointing anyone.

AVESTA HOUSING - IDENTIFICATION OF MONITORING AGENCY

G. Coppelman, who has been communicating with the New Hampshire Housing and Finance Authority (NHHFA) to see if they will act as the monitoring agency for Avesta Housing on Brown Road, said he has no new information. He has been working with Ben Frost and Jim Minehan who at last update said they are still working on this.

There was a discussion of what is required by Zoning Ordinance from a monitoring agency. Citing Article III, Section 11.6.1, T. Santora said that it reads that residents would need to provide three years of tax returns. He said that Avesta’s response to that requirement is that the ordinance refers to workforce housing and does not apply to this project.

Section 11.7.3 requires that the monitoring agency shall include, but not be limited to, the NHHFA. Section 11.7.4 specifies that the owner of the project must submit an annual report for

the monitoring agency. As they will already be receiving annual reports and information on each household, the NHHFA seems a logical choice for monitoring agency. The Board is asking if the NHHFA will condense the annual report down to a short summary for the Town, as the Town has no use for all the details, just the notification that the residents are within the age and income limits for the development.

T. Santora asked G. Coppelman if the NHHFA agrees to act as the monitoring agency and the Planning Board approves them as such, and if the ordinances cited above would be satisfied by arrangement with NHHFA, if Avesta Housing would still need to go before the ZBA for a variance. G. Coppelman said that T. Santora should check with Planning Board Counsel, but his opinion is that if as part of a motion accepting the NHHFA as monitoring agency there is a phrase that says information given on an annual basis will suffice for those items in the ordinance, there should be no reason for Avesta Housing to go to the ZBA.

T. Santora will consult Counsel to be certain this will be sufficient.

MOTION: To adjourn at 8:55 PM.

MOTION: A. Tonry

SECOND: S. Hanson

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