

Present: John Deleire, Chairman; Frank Perry, Vice Chairman; Steve Bryant, Member; Mark Call, Alternate; Susan Ayer, Secretary

Absent: Larry Job, Member; Peter Robart and Patricia Young, Alternates

**** Member David French joined the meeting at 7:30 PM, and therefore was not present to discuss or vote on Case 16-01.**

The Chairman opened the public hearing at 7:02 PM.

In the absence of David French and Larry Job, the Chairman named Alternate Member Mark Call a voting member for this meeting.

The Chairman gave the applicants the option of continuing their case until the June meeting due to Board Members' absence. The applicants opted to go forward with the Members and Alternate Member present.

CASE #16-01: Application from Lee and John McMath for Variances to the terms of Article III, Section 7.2.1.2 to permit an accessory dwelling unit of 750 square feet, where the Ordinance limits living space to 650 square feet, and from Article III, Section 7.2.1.3, permitting an entrance on the front of the structure, for property at 14 Frying Pan Lane, Map 4, Lot 18-3.

Applicants Lee and John McMath were present. No abutters were present, but Lee McMath presented a letter from neighbor Ann Haggart, which the Chairman read into the record:

“TO: Zoning Board of Adjustment

RE: Public Hearing on request of Lee and John McMath, 14 Frying Pan Lane, for variances to the terms of Article III Section 7.2.1.2.

I have reviewed the plans with Mrs. McMath and I have no objections to their request.

Sincerely,
Ann G. Haggart”

APPLICANTS' PRESENTATION OF CASE

The Chairman explained the process to the applicants and asked them to present their case.

Lee McMath said that the project is the addition of an in-law apartment for her and her husband, so that they can stay in the home and have a one-level living area. This would allow them to stay in their own home as they age. The main portion of the home will be occupied by their daughter and her family.

Mrs. McMath went through her written application responses to address the 5 criteria for granting a variance, adding details:

1. The lot is substantial enough to support the addition without any negative effect on abutters, the neighborhood or public. The project is in keeping with the neighborhood; in fact, most of the nearby houses are larger.
2. The addition is compliant with all setbacks, height limits and lot coverage. The addition is over 650 square feet, but very proportional to the existing structures. The additional

100 square feet are very proportional to the existing structure. The addition does not look out of character.

3. This limitation is unnecessarily restrictive when the home is in compliance, on a large enough lot and consistent with other homes in the area.
4. The completed home with the addition will be consistent with other homes in the neighborhood.
5. There will be no detriment to the general public.

Lee McMath informed the Board that a new septic system has just been installed, so there are no issues with that aspect.

John McMath said that he was aware of a new State law going into effect in June that will raise the square footage limits for accessory dwelling units. The Building Inspector informed him that this will not be in effect for towns until June of 2017, as local Zoning ordinances need to be updated at 2017 town meetings. At that time, the minimum square footage will be 750 square feet, the maximum up to the individual towns.

QUESTIONS OF THE BOARD

F. Perry asked why this addition meets the definition of an accessory dwelling. M. Sikorski went over the plan with the Board, pointing out that the sitting room is part of the current house. Originally, there was no separation between the accessory dwelling unit and the rest of the home, but now pocket doors have been added to the plan so that the dwelling unit can be closed off. F. Perry asked if the doors were not there if this would qualify. M. Sikorski said that there have been different approaches over the years, and that some towns have zoning in effect that requires a locking door between units. He said that as a result of this application he has made up a new acronym to describe the type of living arrangement: GOD, for Generational Occupational Dwelling. There is separation when needed, but it is really two generations living in the same home.

M. Sikorski said that by adding doors, the sitting room was removed from the total square footage of the accessory dwelling unit.

The Board discussed the definition of an accessory dwelling unit.

J. Deleire asked the applicants about the other variance requested, to have the entrance to the addition on the front of the building rather than the side, per the ordinance.

In discussion, it was established that the front entrance is a safety feature, as the parking is at the front, and because a side entrance would require walking on uneven, possibly icy or snowy terrain to get to the driveway. There is a pitch to the property on that side.

It was also noted that the proposed front entrance is esthetically pleasing and in keeping with the rest of the house. It blends well and does not look at all like a duplex, which is something the Board felt the ordinance attempts to avoid.

Frank asked if there would be adequate parking, and it was noted that there is a good sized driveway and a two car garage.

Mr. McMath was asked about the brick chimney, and said that there will be no fireplace conversion for the accessory side; the chimney will remain and be boxed in.

As there were no further questions, the Chairman closed the public hearing.

REVIEW OF 5 REQUIREMENTS FOR GRANTING A VARIANCE – SECTION 7.2.1.2

The Board discussed the 5 criteria individually with regard to the variance requested from Section III, Section 7.2.1.2. and took a poll of the members for each.

1. No member felt the variance would be contrary to the public interest. Agreed by all.
2. The Board felt that the spirit of the ordinance was to put a limit on additions that would create an ugly structure. It was agreed that the McMaths' addition has esthetic appeal. Agreed by all.
3. S. Bryant said it would be unfair not to grant the request, that substantial justice would be done. All agreed.
4. The Board agreed that granting this variance would not diminish the values of surrounding properties, but in fact would enhance them. Agreed by all..
5. S. Bryant said he felt that literal enforcement of the provision would be an unnecessary hardship; F. Perry said he has lived in very small spaces and felt that it was reasonable to request the extra 100 square feet. All agreed.

MOTION: That with respect the request for a variance to the terms of Article III, Section 7.2.1.2 to permit an accessory dwelling unit of 750 square feet, where the Ordinance limits living space to 650 square feet, the criteria have been reviewed and unanimously accepted in discussion, and therefore it is moved to approve this application for variance from said provision of the ordinance.

MOTION: F. Perry

SECOND: J. Deleire

UNANIMOUS

REVIEW OF 5 REQUIREMENTS FOR GRANTING A VARIANCE – SECTION 7.2.1.3

The Board then discussed the 5 criteria individually with regard to the variance requested from Section III, Section 7.2.1.3 and took a poll of the members for each.

1. No member felt that the entrance at the front of the building was contrary to the public interest. It was noted that the arch elevation reflects numerous dwellings in town. All agreed.
2. All felt that the spirit of the ordinance was observed. No visual detriment to the neighborhood was felt to be caused by the front entrance. All agreed.
3. All felt that substantial justice was done. All agreed.
4. None felt the values of the surrounding properties would be diminished; J. Deleire said he felt that if anything, they would be enhanced. All agreed.
5. F. Perry said that he believed making it harder to access vehicles and walkways constituted unnecessary hardship. S. Perry said that as the couple ages it will become more challenging to get around outdoors, and that it makes sense to have the door where the area is shoveled and the cars will be parked. All agreed.

F. Perry said that he did not feel there were viable alternatives that could be used that would not need a variance.

MOTION: To approve a variance from Article III, Section 7.2.1.3, permitting an entrance on the front of the structure for an accessory dwelling unit, as the Board has individually reviewed and unanimously approved all 5 criteria for granting a variance.

MOTION: S. Bryant
SECOND: J. Deleire
UNANIMOUS

J. Deleire advised the applicants that there is a 30-day appeal period during which anyone who has an objection to the project may come forward and reopen the case.

REVIEW AND APPROVAL OF PREVIOUS MEETING MINUTES: March 24, 2016

MOTION: To approve the minutes of March 24, 2016, as written.

MOTION: F. Perry
SECOND: D. French
UNANIMOUS

OTHER BUSINESS

There was a discussion of the issue of outdoor recreational facilities that was raised at the Planning Board meeting on May 24 at the request of Building Inspector Mark Sikorski, who had received a complaint about an outdoor hockey rink at a residence.

M. Sikorski informed the Board that he went to the Planning Board to get an opinion of the complainant's interpretation of the ordinance. The consensus was that the hockey rink did not constitute a recreational facility per the definition in the Zoning Ordinance, and that the definition was never meant to apply to residential properties. The Planning Board is pursuing adding the word "commercial" to the definition.

The distinction between commercial vs. residential recreational facilities was discussed, as well as permanent vs. temporary structures.

MOTION: To adjourn at 8:06 PM.
MOTION: J. Deleire
SECOND: S. Bryant
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