

Official

HOOKSETT ZONING BOARD OF ADJUSTMENT

Tuesday, April 14, 2015

HOOKSETT MUNICIPAL BUILDING

CALL TO ORDER

Vice-Chairman Roger Duhaime called the regular meeting to order at 6:33 pm.

PLEDGE OF ALLEGIANCE

ATTENDANCE: Roger Duhaime (Vice-Chairman), Michael Simoneau, Richard Bairam, Gerald Hyde, Phil Denbow, and Jim Levesque, Council Rep.

STAFF: Matt Lavoie, Code Enforcement Officer

EXCUSED: Chris Pearson (Chairman) and Don Pare.

APPROVAL OF MINUTES

March 10, 2015 – *R. Bairam motioned to approve the March 10, 2015 regular meeting minutes. Seconded by P. Denbow.*

G. Hyde motioned to amend the March 10, 2015 regular meeting minutes. Seconded by P. Debow. Motion carried unanimously.

NEW PUBLIC HEARING

Jon A. Morgan **Case #15-02**
16 Virginia Court Map 25, Lot 19-36
MDR

A variance is requested from Article 5, Section E.3 of the Zoning Ordinance to permit 15 feet of front yard where 25 feet is required for an in-law apartment addition.

Jon Morgan: I would like a variance for the set-back for my side yard. I would like to put on a 618 sq. ft. addition and a one car garage on the side of my house for my mother. It would be on the Burbank side of my property. I am on the corner.

J. Morgan read the application into record.

R. Duhaime: How long have you lived there?

J. Morgan: Six years.

M. Simoneau: Would you see the addition from Burbank Way?

J. Morgan: Yes. You would see it from both Burbank and Virginia.

R. Duhaime: Matt, is this because it would be encroaching 10'? Is the in-law apartment allowed?

M. Lavoie: Technically, the way this is drawn, it is not an accessory apartment. Accessory apartments are inside the house. It is not quite a two-family, but it doesn't quite meet the ordinance as an accessory apartment.

R. Duhaime: Is this just a bedroom and bathroom and not a full kitchen?

M. Lavoie: The drawings do show a full kitchen. As an accessory apartment, it has to be maintained inside the house. There are size restrictions as well. It can only be one-third the size of the original layout. As this is drawn it looks like a two-family, but it doesn't meet a two-family criteria because there are shared entrances between the spaces.

M. Simoneau: Is this serviced by a well and septic?

M. Lavoie: It is municipal water and sewer.

R. Bairam: Will it have a full basement or be built on a slab?

J. Morgan: We would like a full basement, but if it is better on a slab we will do that. I was concerned about the utilities because it is a small area.

R. Duhaime: What is the sq. footage the addition?

J. Morgan: 618 sq. ft. plus a one car garage.

R. Duhaime: What is the existing house?

J. Morgan: Around 2,070 sq. ft.

R. Duhaime: Does the 618 sq. ft. include the garage?

J. Morgan: No.

R. Bairam: Does it include the basement?

J. Morgan: No.

R. Bairam: It is one-story?

J. Morgan: Yes.

R. Duhaime: What is the sq. footage with the garage?

J. Morgan: The garage would be 12 x 22.

M. Simoneau: The driveway would come onto Burbank Way?

J. Morgan: Yes.

M. Simoneau: Does that area require a curb-cut?

M. Lavoie: It would require approval by the DPW director, but that is not part of the variance.

R. Duhaime: Matt, what is the sq. footage?

M. Lavoie: It is 882 sq. ft. all together.

Open public hearing.

Jon Hopkins (3 Burbank Way): I have lived here since 1998 and am the original owner of my property. With the sq. footage I can see on the plan, 880 sq. ft. is more than the 30 percent allowed by the ordinance. It does not meet the definition. Also, the plans don't show the original driveway cut on Virginia. This would add a second driveway cut on another street. I was told that the driveway defines the address. This would be a Burbank Way address. It is adding a second house to this lot. I don't believe the lot is big enough to accommodate a two-family, if this is what it becomes, and I don't believe the driveway will be long enough to meet the ordinance requirements. I am also concerned about the total sq. footage, including the basement, and the aesthetics to my property. I believe this will have a negative impact to my property value, the neighbors property value, and that of the neighborhood. In the neighborhood there are several other accessory apartments that are incorporated into the house so that they look like part of the structure. To me this looks like a separate building with a mudroom connecting it. I am opposed to this. I am opposed to a variance being granted to build it this close to the street. I don't think it is a good fit for our property values.

J. Levesque: Is 3 Burbank the other corner lot across the street?

J. Hopkins: No. I am up one more. The corner lot is a Virginia address.

M. Simoneau: Is that Lot 38?

J. Hopkins: Yes.

William Ammann (18 Virginia Court): I am opposed to granting this waiver. I believe it will

diminish the property values in the neighborhood. This gives the appearance of being a two-family house. The entire neighborhood gives the appearance of single-family homes. This also intrudes into the set-back regulations. I think the two-family house in the neighborhood would diminish it, it would not fit in with the rest of the neighborhood. I have lived in my home since 1998. This home that is proposed has two separate driveways on two separate streets and two separate garages, so it is obviously a two-family home, not an accessory apartment. I think the zoning regulations were put in place to protect the character of the neighborhood, so I think they should be respected.

M. Simoneau: Which lot are you?

W. Ammann: I am on the opposite corner of Burbank and Virginia.

Patricia Ann Gormley (14 Virginia Court): I am going to read from a letter that I was going to send, but I was able to be here this evening. "My husband, Brian, and I have lived at Virginia Court since 1998. We are the original owners of our property. I am here this evening in response to a letter my husband and I were served with regarding the variance request for Jon A. Morgan at 16 Virginia Court, Map 25, Lot 19-36. At this time, my husband and I are in opposition of allowing the 15' front yard variance where 25' is required, due to the following issue. If permitted, a precedent will then be set for others in the neighborhood to seek the same variance for building on their property. How can future requests be denied if this request is allowed. This change opens itself up to many unanswered questions as to the building of different structures being considered: an accessory apartment, the building of an actual second home on ones property or various other types of buildings. Allowing the variance could possibly change a homeowners plan as to the type of structure they are considering due to the actual footage increase. This could allow a homeowner to change from an accessory apartment, to an actual second home, or even a building with other purposes in mind that has been traditionally a single home neighborhood. If one looks at the square footage of 16 Virginia Court, the accessory apartment should only cover approximately 609 sq. ft., which is 30 percent of the actual living area, 2,032 sq. ft., which the sq. footage is based on for accessory apartments. Reviewing Article 5, Section E3 of the Zoning Board ordinance it reads: 'A corner lot shall be no less than 35' in depth measured from the edge of the street right-of-way to the foundation.' I was informed that in 2008 that set-back was amended from a 25' set-back to the current 35' set-back in regards to corner lots, and since 16 Virginia Court was built in 1998, they are grandfathered in for a 25' set-back. I am not sure if safety was an issue for the change in regards to corner lots, but obviously the Board, at that time, felt that a change needed to be made. Had 16 Virginia Court been built after 2008, we would actually be discussing the difference in variance of not a 10' difference but a 20' difference from the street. My husband and I feel there are too many uncertainties for future development and the possible overall changes in the

neighborhood to support this variance.

Glenn Rowley (4 Burbank Way): We are the original owners of our property and have owned our home since 1998. Mrs. Gormley talked about the 35' versus the 25'. I am confused as to how she presented it. Does a corner lot require 35' on each street or 25'?

R. Duhaime: On the website it says 35' and when this was built it was 25'. Zoning is always changing. For some reason it changed. On some sub-divisions there are smaller lots which may have different standards. I believe they may be correcting the standards for the area.

G. Rowley: I understand what some of the other neighbors have talked about as far as concerns. Our view is that it will look like two different buildings. We are supportive of the concept of having an in-law apartment, however, the design is such that it looks like it is two stand alone units. To me a right angle would look more appropriate and more like some of the other homes at the top of the hill. We are concerned with the general design and the closeness to the road, but are supportive of what they are trying to do as far as having an in-law.

Close public hearing.

P. Denbow: I have a couple of concerns. An accessory unit must be contained within the existing primary structure and access to the accessory unit must be through the primary unit. I am not sure how that affects this with the garage being an access. Also, the 30 percent rule. To the last abutters comment, in that neighborhood all the existing in-laws look like part of the existing structure. The only way you might know is a three-car garage in the front instead of a two. Also, the sq. footage with the garage on the second structure is 880 sq. ft. which is just about the footprint, if you divide the 2,000 into 1,000, of the original house.

R. Duhaime: I have seen this kind of addition before, but on a two acre lot. In that case there is room for it. What is the sq. footage on this lot?

J. Morgan: .8 acres.

G. Hyde: It looks like you are coming out of this corner of the house at an angle coming into Burbank. Is there another way you can build that structure to come closer into your lot and not encroach as much.

J. Morgan: The only reason it is not perpendicular to the original structure is that I would have to take my pool down and my children use it. Maybe it is something I have to wait further down the line to do and then take my pool down.

R. Duhaime: You have a pool in the backyard?

J. Morgan: Yes.

R. Duhaime: How big is the pool?

J. Morgan: 30'.

R. Duhaime: Matt, would he need a variance for the sq. footage.

M. Lavoie: Two-families require separate water and sewer so it would not be a two-family.

R. Duhaime: Is the driveway in the sq. footage?

M. Lavoie: It has not been calculated yet because I have not received a building set of plans as of now.

R. Duhaime: If you took the pool down and pushed it back, then you could get your 25' setback?

J. Morgan: Yes.

J. Levesque: Where it says 30 percent, that is if you built the apartment inside the building?

M. Lavoie: Yes.

J. Levesque: What about an addition to the building?

M. Lavoie: It doesn't fall under that ordinance.

J. Levesque: It doesn't meet any of the requirements for an accessory apartment?

M. Lavoie: Correct.

R. Duhaime: There may be an issue of value because we don't know what this will look like so close to the road. Sometimes we have the applicant do a study by a realtor to see if it would diminish value.

R. Bairam: He doesn't meet the rules for an accessory apartment?

R. Duhaime: Correct.

M. Lavoie: If you read the beginning of the accessory apartment ordinance it was set up so it would be more affordable to move people into their homes and have care for families. In this case, it is an addition and has nothing to do with accessory apartments.

R. Duhaime: It will be 15' from the road?

M. Lavoie: Yes.

R. Duhaime: What is your average parking space for a car?

M. Lavoie: I believe it is 10x20. A garage is also considered a parking space.

G. Hyde: Is it considered an addition with a kitchen? As I understood it, if you have a second stove it is considered a dwelling.

M. Lavoie: It can be, but it doesn't meet a two-family under the building code because it doesn't have separate water and sewer hookups, and electricity. I don't have a full set of building plans so I am not sure if that is the case.

P. Denbow: What would make the difference between an in-law apartment and addition? Are you saying you would not know until you get the building plans?

G. Hyde: That is where my problem would be. Can we call it an addition if it has a kitchen and bathroom?

R. Duhaime: Yes because it is connected to the house. We have passed this before, but it has been on homes on bigger lots. My concern is the lot is small for the sq. footage.

M. Simoneau: I did not realize there was a pool. Looking at the lot size, was it considered to bring that addition around to make it flush with the main house?

R. Duhaime: We discussed he could move the pool and bring it back. If he did that would he need a variance?

M. Lavoie: Provided the pool does not encroach on the other set-back line.

R. Duhaime: If he took the pool down he would not need to come back before this Board?

M. Lavoie: The house is 25.2' from the curb as the plot plan shows. If he were to go perpendicular to the house, even with that side of the house he, technically, would not need a variance.

P. Denbow: Regardless of whether or not the variance is needed, you were saying you still don't have a final plan so you don't know what code it is susceptible to?

M. Lavoie: Correct.

M. Simoneau: I wish this was a bigger lot.

R. Duhaime: On the other side you have 53' from Virginia Court so you have more room there.

J. Morgan: That is my front yard.

R. Duhaime: So the further back you put it you take up more of your back yard?

J. Morgan: Yes.

P. Denbow: On the back side, as you have it now, after the structure is done, how far are you from the neighbor on the back side of the lot?

J. Morgan: I believe it is 33'.

M. Simoneau: The pool would have to stay within 25' from the back of the lot?

M. Lavoie: To the back, yes. The rear yard set-back is 25'.

M. Simoneau: Unfortunately, I don't think you have a lot of options.

R. Duhaime: A smaller addition could be put on.

M. Simoneau: I think what you are doing is honorable, but it is hard to work with this. I would suggest the pool be moved, and have the property conform with the zoning laws.

G. Hyde: It is hard to establish hardship given that we have three abutters who dislike the project, and if the pool in the backyard was moved zoning laws could be met.

R. Duhaime: If it was a bigger lot it could accept the pool. It would be one-story?

J. Morgan: Yes.

J. Levesque: Have you considered putting a two-story addition on the end of the house where the fireplace is?

J. Morgan: The main goal is to have one floor.

R. Duhaime: I think it would be a nice addition, but having one side of the home being 53' from the road and around the corner 15', it can be imposing. It can add a real long looking house. What is the length of your house?

M. Lavoie: 28' at it longest point.

R. Duhaime: You have the length of the house, then come around the corner and have the width, then the addition. What is the length, width, and the length of the new addition? That is what will be seen. When you put it all together it makes for a very big home on a small lot. That is my concern about value. If it is set back from the road it is not so imposing.

M. Simoneau: I understand where the applicant, as well as the abutters, are coming from. It is honorable from the applicant, but the concerns of the abutters cannot be discounted.

J. Levesque: If the vote doesn't pass and he has to start all over again, can he withdraw tonight and come back with a different plan that would be more acceptable so that he doesn't have to start over?

M. Lavoie: That is up to the applicant. If he were to submit a new plan, I don't believe it has an impact on the variance request because he is only asking to build within 10' of that set-back. If that was same I don't think it would matter because nothing is finalized.

P. Denbow motioned to grant a variance from Article 5, Section E.3 of the Zoning Ordinance to permit 15 feet of front yard where 25 feet is required for an in-law apartment addition for Jon A. Morgan, Case #15-02, 16 Virginia Court, Map 25, Lot 19-36, MDR. Seconded by R. Bairam.

Roll Call

M. Simoneau: No

G. Hyde: Yes

R. Duhaime: No

J. Levesque: No

P. Denbow: No

Vote 4-1 Motion fails.

R. Bairam motioned to adjourn. Seconded by G. Hyde. Motion carried unanimously.

ADJOURNMENT

The meeting adjourned at 7:21 pm.

Respectfully submitted by,

AnnMarie White

Recording Clerk