

**Zoning Board of Adjustment**  
**August 6, 2007**

**Members Present: Elizabeth Ashworth, Chair; Helen Wright; Alex Azodi, Alternate**

Ms. Ashworth called the meeting to order at 7:10 p.m. For the record, she stated that she contacted each of the Board members regarding appointing Barbara Richmond to the Zoning Board of Adjustment as an Alternate Member. There were no objections from any of the Board members.

Ms. Richmond was sworn in as an Alternate member to the Zoning Board of Adjustment.

Ms. Ashworth appointed Mr. Azodi and Ms. Richmond as voting members for tonight's meeting.

***At 7:15 p.m. Craig Sweitzer, property located at 32 Highland Ave, Newbury, NH, will seek a Special Exception as provided for in 5.7.1 to permit the following: Transfer the use of an accessory apartment to an existing accessory building. Newbury Tax Map 018-309-096.***

Mr. Sweitzer explained that he would like to convert the second story of his existing 24' x 24' garage into an accessory apartment after removing the old accessory-use cottage located at the top of his driveway, thereby transferring the accessory-use of the old cottage to the newer space above his garage. He stated that under Article 5.7.1, the Zoning Board of Adjustment is given the authority to be the permitting agency to hear this appeal. Article 15.0.2 directs the applicant to apply for a special exception for a change of an existing non-conforming use. ...'For a Special Exception to be approved, a petitioner must prove to the satisfaction of the Board of Adjustment that the proposed change in or expansion of, the existing non-conforming use will not be more harmful or detrimental than the existing non-conforming use in addition o meeting the findings of fact and conditions for granting a special Exception as outlined in Article XVI.'

Mr. Sweitzer stated explained that approval of this application will create a less non-conforming situation because he would be permanently removing a pre-existing non-conforming accessory cottage and not adding any new structures which means less density. He explained that the 970 sq. ft. cottage has been in existence for approximately 45 years and does not meet the current zoning requirements for setbacks. It is not an attractive building; and through the years of road maintenance and grading, the Town had added material to the road which now places the cottage below grade. Drainage problems are eminent. The space above the garage is 576 sq. ft. and meets all setbacks; it is screened from the neighbors' view and was built to meet current electrical, plumbing and building codes.

Ms. Richmond asked if the space above the garage has provisions for septic.

Mr. Sweitzer explained that there are two complete septic systems on the lot which are in compliance with current requirements and the new apartment space will tie into one of them. He stated that there is also a working artesian well that the apartment will tie into for a water source.

Ms. Richmond asked Mr. Sweitzer if there is going to be a woodstove in the apartment.

Mr. Sweitzer stated that there will be no woodstove, just a propane sealed combustion unit for heat. He acknowledged that he will not be able to rebuild on the footprint of the cottage.

Mr. Azodi asked Mr. Sweiter if there was anything he needed to do to make the space above the garage livable.

Mr. Sweitzer explained that nothing has to be done to the outside of the building. On the inside, the final petitions, wiring, plumbing, sheetrock and finishing needs to be completed in conjunction with the approvals of the Building Inspector.

Ms. Ashworth recognized that there were no members from the public to speak; therefore the Board went into deliberation.

Ms. Wright commented that she did not have any issues with the proposal. Taking down the building is good as long as nothing could be rebuilt in that place. The application meets the criteria for special exception including the time requirement for converting space to an accessory use.

Mr. Azodi commented that assuming everything that was presented is correct, it all seems to be a positive change.

Ms. Richmond commented that it is a good change which will avoid a lot of future problems with drainage but felt bad to see the cottage come down.

Ms. Ashworth commented that Mr. LaCasse, Building Inspector, indicated that this application is a win situation for the Town. He recognized that the lot would be considered too small for a new accessory use; but since the accessory use cottage is coming down, that justifies allowing the new use over the garage.

Mr. Azodi made a motion to vote on the application. Ms. Wright seconded the motion. All in favor.

Ms. Ashworth voted to grant the application with the following conditions:

1. The cottage building is removed before the certificate of occupancy is issued for the accessory apartment above the garage.
2. There may be no dwelling built in the future on the footprint of the cottage building.

Ms. Wright voted to grant the application with the conditions stated.

Mr. Azodi voted to grant the application with the conditions stated.

Ms. Richmond voted to grant the application with the conditions stated.

Ms. Ashworth advised Mr. Sweitzer that there is a 30-day appeal period in which any abutter may appeal the Board's decision and ask for a rehearing.

***At 7:30 p.m. Cindy & David Lapp, property located at 103 Bay Point Road, Newbury, NH, will seek a variance as provided for in Article 7.3.2 to permit the following: Reconstruct a home on an existing non-conforming lot situated within the 75' shoreline setback. Newbury Tax Map 007-166-398.***

Ms. Ashworth informed the Board that the applicant has chosen to exercise their right to present their application in front of a full Board.

Ms. Ashworth made a motion to continue this hearing until Monday, August 20, 2007 at 7:15 p.m. Ms. Wright seconded the motion. All in favor.

The Board took a 10 minute break.

***At 7:45 p.m. Cindy and David Lapp, property located at 103 Bay Point Road, Newbury, NH, will seek a variance as provided for in Article 5.9.1 to permit the following: Reconstruct a home on an existing non-conforming lot situated within the 15' setback from the side and rear property liens. Newbury Tax Map 007-166-398.***

Ms. Ashworth informed the Board that the applicant has chosen to exercise their right to present their application in front of a full Board.

Ms. Ashworth made a motion to continue this hearing until Monday, August 20, 2007 at 7:15 p.m. Ms. Wright seconded the motion. All in favor.

Ms. Ashworth explained that the Board will hear both of the Lapp's cases at the same time but vote on them separately.

Ms. Wright made a motion to adjourn. Mr. Azodi seconded the motion. All in favor.  
Meeting adjourned at 7:50 p.m.

Respectfully submitted,

Linda Plunkett  
Recording Secretary