

Applicant: Kevin Roy  
Michael Perfit (Property Owner)  
182 Winnicutt Road

Members Present: John Dold, Neil Rowe, Arol Charbonneau, Bruce Barker and Kirk Scamman

The Board of Adjustment held a Public Hearing on Tuesday, June 9, 2009 at 7:30PM in the Municipal Center to consider the request of a Special Exception to the terms of Article V, Section 5.4.3 of the Zoning Ordinance. Applicant asks that said terms be waived to permit an accessory apartment.

Acting Secretary Arol Charbonneau read the notice and the application. For the record, Chairman Dold said the notice should have stated that the applicant is requesting a Special Exception and not a Variance. He also added that Kirk Scamman is a voting member of the Board tonight.

Chairman Dold asked the applicant to present his case. Kevin Roy stated he is representing the property owner as his builder. Mr. Roy stated there is an existing septic system in place that is in use and in the file is the plan-in-hand if it should fail. The septic plan also shows the parking in relation to the existing house and driveway.

Terry Barnes, Code Enforcement Officer, stated the septic system there was to be abandoned as part of the process, adding that there will have to be a new septic design done and installed. Mr. Roy asked if a new one had to be installed even if the existing is functioning. Mr. Barnes responded yes, adding that the septic system presently there should have been abandoned.

Neil Rowe asked where the accessory apartment is to be located. Mr. Roy responded it is the two-bedroom house that is referred to as the carriage house on the assessment card. The house is finished but hasn't been inhabited for a while. Paul Deschaine, Town Administrator, added the carriage house was built first, lived in by the owner who, at a later date, built the main house. Mr. Deschaine stated when the owner built the main house, since the Zoning Ordinance didn't allow two living structures on one lot at the time, he had to abandon the carriage house. He added since then the Ordinance has changed and now accessory apartments don't necessarily have to be attached. Just recently the Ordinance wouldn't have allowed a separate and freestanding accessory apartment.

Mr. Roy asked for clarification regarding the septic system. Mr. Deschaine explained the only plan on record currently shows an abandoned field. If he wishes to reactivate that field or install another one in its place he has to update the plan so there's one on record with the State.

Chairman Dold asked the applicant to explain what he intends to do. Mr. Roy responded the house already has a kitchen, which is dated. He will be replacing the cabinets and updating it. The existing bathroom will be updated with new fixtures. The roof will be re-shingled and the hardwood floors will be refinished. Mr. Roy added the floor plan itself is not changing.

Neil Rowe asked if the main dwelling is owner-occupied. Mr. Perfit responded yes. Neil Rowe asked if it will become a rental apartment when it is completed to which Mr. Perfit responded yes. Mr. Rowe stated the property itself must conform to Table 4.2 of the Zoning Ordinance. After reviewing the assessment card, it was determined that it does conform. At 1002.59 square feet, the Board determined it was close enough to the 1000 square feet maximum allowable for an accessory apartment.

Chairman Dold stated in order to grant a Special Exception for an accessory apartment the following conditions must be met: A) The dwelling to which an accessory apartment is to be added must be owner-occupied. All Board members agreed the dwelling is owner-occupied. B) The property and proposed use must conform to the dimensional requirements of Table 4.2. Chairman Dold then read through the list of requirements. All Board members agreed the property and proposed use conform to the dimensional requirements. C) The single-family dwelling shall not be a mobile home, condominium, or located within a cluster development. All Board members agreed this condition is met. D) The accessory apartment shall be designed so that the appearance of the building remains that of a one-family dwelling. Any new entrance that may be required shall be located on the side or in the rear of the building. Units within a garage shall be constructed to maintain the look of a residential garage such that entry doors should remain and any decks are constructed to the rear of the structure. All Board members agreed the accessory apartment will meet these conditions. E) The size of the accessory apartment shall be between 400 square feet and 1000 square feet and shall not exceed one-third of the living area of the existing building. All Board members agreed this condition is met. F) In no case shall there be more than three (3) people residing within an accessory apartment. All Board members agreed this condition is met. G) Adequate off-street paved or gravel parking shall be provided and shown on the sketch plan. The appearance of the parking design shall be that of a single-family dwelling. All Board members agreed this condition is met. H) The structure and lot shall not be converted to a condominium or any other form of legal ownership distinct from the ownership of the existing single-family dwelling. All Board members agreed this condition will be met. I) Prior to the granting of a Special Exception by the ZBA, the owner shall provide, as part of the ZBA case file, the following: i. Evidence to the Building Inspector that septic facilities are adequate for both units according to the standards of Stratham and the NH Water Supply and Pollution Control Division. If deemed necessary by said Inspector, such evidence shall be in the form of a certification by a State of NH licensed septic system designer. Also the owner shall provide evidence that there is adequate potable water according to the standards of the State of NH. The Building Inspector then shall indicate his approval in writing to the ZBA; ii. A floor plan of one quarter inch (1/4") to the foot scale showing the proposed changes to the building; iii. A sketch plan (drawn to scale) of the lot, with existing and proposed structures and

parking. The Board agreed to condition their approval that the owner shall provide the evidence to the Building Inspector required in 5.4.3.I.i for the adequacy of the septic facilities and the adequacy of the potable water. All Board members agreed these conditions will be met. The Board also agreed to accept the floor plan of one half inch to the foot scale. J) The accessory apartment shall be subject to the standards and conditions for a Special Exception as set forth in Article 17.8.2 of this Ordinance which are: 1) The Standards provided by this ordinance for the particular use permitted by Special Exception. All Board members agreed the standards are met with the conditions that will be assigned. 2) No hazard to the public or adjacent property on account of potential fire, explosion or release of toxic materials. All Board members agreed there will be no hazard. 3) No detriment to property values in the vicinity or change in the essential characteristics of a residential neighborhood on account of the location or scale of buildings and other structures, parking area, access ways, odor, smoke, gas, dust, or other pollutant, noise, glare, heat, vibration, or unsightly outdoor storage of equipment, vehicles or other materials. All Board members agreed there will be no detriment to property values. 4) No creation of a traffic safety hazard or a substantial increase in the level of traffic congestion in the vicinity. All Board members agreed there will be no creation of a traffic safety hazard or substantial increase in the level of traffic congestion. 5) No excessive demand on municipal services, including, but not limited to, water, sewer, waste disposal, police and fire protection, and schools. All Board members agreed there would be no excessive demand. 6) No significant increase of storm water runoff onto adjacent property or streets. All Board members agreed there will be no significant increase.

Bruce Barker motioned to approve Case # 537 to permit an accessory apartment within an existing carriage house with the following condition: The owner shall provide evidence to the Building Inspector as required in Section 5.4.3.I.i for the adequacy of the septic facilities and the adequacy of the water. Arol Charbonneau seconded the motion with all Board members voting in favor. Chairman Dold advised the applicant of the thirty-day appeal period and called Case # 537 closed.

Respectfully,

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 Norma Corrow, ZBA Clerk

The tape of the meeting is available at the Town Office Building for review during regular business hours.