

Applicants: Daniel & Patricia Wright
9 Union Road

Members Present: John Dold, Neil Rowe, Arol Charbonneau, Bruce Barker and David Short

The Board of Adjustment held a Public Hearing on Tuesday, September 8, 2009 at 7:30PM in the Municipal Center to consider the request of a Special Exception under the terms of Section 5.4.3 of the Zoning Ordinance to permit an accessory apartment.

Secretary Arol Charbonneau read the notice, the application and the letter dated September 1, 2009 from Terry Barnes, Code Enforcement Officer.

Chairman Dold asked the applicants to present their case. Daniel Wright stated they believe they have complied with the requirements. He added the intent is to attach the accessory apartment to the existing garage structure that is not attached to their house. They have updated the septic plan and have submitted it to the State for approval. He stated that Mr. Barnes requested that the existing wells from the adjacent properties be shown on the plan. Mr. Wright stated the engineer put a radius on the plan to clearly identify the maximum radius of 120 feet. Mr. Wright added that their intent is for the accessory apartment to be 30ø x 26ø which is about 780 square feet. They are considering putting a second bedroom on the second floor. Chairman Dold asked if it will have a foundation. Mr. Wright responded that it will have a full foundation which will not be finished.

Chairman Dold asked the applicant to describe the portico. Mr. Wright stated they want to separate the apartment from the garage with the portico. The portico will be available for parking during spring, summer and fall. During the winter, the vehicle will be stored in the existing garage. Neil Rowe added that the portico attaches the accessory apartment to the garage. He then read the definition of an accessory apartment from the Zoning Ordinance, "An accessory apartment is one apartment provided it is located within the single-family dwelling or garage which may be separate from or attached to the main dwelling and is clearly a subordinate part thereof and has safe and proper means of entrance and exit and meets the requirements set forth in 5.4." Neil Rowe stated in this case, although the apartment isn't in the garage, it is attached to the garage through the portico. Mr. Wright stated that the egress to the apartment would be through the portico and either out the opposite side or the back of the apartment, depending on the final layout. He added there will be no egress from the apartment into the garage without going outside.

Neil Rowe said the applicant mentioned he wanted to use the full 1000 square feet available, but the dimensions of the building gives him only 780 square feet for the apartment. Mr. Wright said he could put a 14ø x 14ø bedroom on the second floor which would be under 200 square feet and still be under 1000 square feet. Terry Barnes, Code Enforcement Officer, explained how the square footage for the second floor is calculated. He added he won't know how much space is available on the second floor until he sees a plan. Mr. Wright said he has a plan for the lower level but not for the second floor bedroom.

Chairman Dold stated an accessory apartment can have between 400-1000 square feet but it cannot exceed 1/3 of the living area of the existing dwelling. The living area of the house is 1872 square feet between the first and second floors. There was discussion as to whether the basement and the space over the garage attached to the house are finished or not. Mr. Wright stated the basement will never be finished but he could finish the area above the garage that is attached to their house. Presently, the area above the garage is not finished.

Bruce Barker stated he had trouble imagining this keeping the appearance of a one-family dwelling when there are two dwellings and two garages. Neil Rowe stated usually the garage is attached to the house or one unattached to the house, not one attached to the house and one unattached.

Chairman Dold asked if anyone would like to speak in favor of the applicant. Fred Balas, 129 Bunker Hill Avenue, stated he is familiar with the property, as he has taken walks past it. He stated he personally doesn't have a problem with what he has heard and added he is in favor of this application.

Chairman Dold then asked if anyone would like to speak in opposition to the applicant. Laurie Sullivan, 11 Union Road, stated in the Zoning Ordinance, Section 5.4.3, it states that the apartment should be within a detached family dwelling or garage and this is not. She added this is a separate structure. Ms. Sullivan read from the minutes of the January 21, 2009 meeting, "Mr. Grassie responded and said that at the last meeting he submitted separately the question of allowing cottages on the property and the Board decided that they did not want two separate building units on the lot." Ms. Sullivan added this is what the Board said they did not want. She added it totally goes against 17.8.2, Special Exceptions, that states no detriment to property values in the vicinity or change in the essential characteristics of a residential neighborhood. Ms. Sullivan stated to her that is not the residential neighborhood they moved into, which is all single-family homes. Neil Rowe stated Mr. Grassie's statement was part of a discussion the Board had at one of the meetings on accessory apartments prior to presenting it to the Town. He said the Board discussed it but it was not a Board decision. Mark Sullivan, 11 Union Road, stated clearly this is not what the Zoning Ordinance intends.

Lincoln Daley, Town Planner, stated in this case, what they are doing is attaching an in-law apartment to an accessory use not the primary use itself. It states in the Town Zoning Ordinance that it has to be within. He added it appears to him that the intent is to allow for an in-law apartment as long as the entire structure has the appearance of a single-family home. Neil Rowe stated the problem is that the apartment is going to be attached to a second garage which is really a barn and not a garage. Mr. Wright stated he has unregistered cars in the barn and added that he considers it a garage. Bruce Barker read from Section D of the Zoning Ordinance, "Units within a garage should be constructed to maintain the look of a residential garage, entry doors should remain and any decks constructed to the rear of the structure." Bruce Barker stated it sounds to him that the intent is still to have it within the garage and to maintain the look of a garage. Chairman Dold then read a further description from 5.4.3, "And is clearly a subordinate part thereof."

Chairman Dold asked the applicant if he would be willing to put the accessory apartment in the existing barn, in the main house or in the area above the garage. He added what he is hearing, if he wants it separate, is that it has to be in the barn.

Mr. Wright stated he would like to continue his case until he decides what his plan is after working with the Code Enforcement Officer and the Town Planner. Neil Rowe motioned that Case #541 be continued at the applicant's request. David Short seconded the motion with all Board members voting in favor. Chairman Dold added that the abutters will be re-notified.

Respectfully,

Norma Corrow, ZBA Clerk

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