



**Stratham Zoning Board of Adjustment
Meeting Minutes
October 25, 2011
Municipal Center, Selectmen's Meeting Room
10 Bunker Hill Avenue
Time: 7:00 PM**

Members Present: Arol Charbonneau, Chairman
Kirk Scamman, Full Time Member
Jeffrey Karam, Full Time Member
Dave Short, Full Time Member
Bruce Barker, Full Time Member
Chris Brett, Alternate
John Dold, Alternate

Members Absent: Mike Smith

Staff Present: Terry Barnes, Building Inspector

1. Call to Order/Roll Call:

Mr. Charbonneau, Chairman called the meeting to order at 7:00 pm and explained the procedure for the meeting to all those present.

2. Approval of Minutes:

August 9, 2011

September 20, 2011

3. Public Hearings:

- a.** Case # 565: Gary Tilton, 3 Hillcrest Drive, Tax Map 19, Lot 63 Residential/Agricultural Zoning District. This is a public hearing whereby the applicant is requesting a Special Exception from Article V. Supplementary Regulations, Section 5.4. Accessory Apartments of the Stratham Zoning Ordinance to construct an accessory apartment to the existing single family dwelling.

Mr. Karam read through Case # 565 for everybody present. The Applicant, Mr. Tilton took the floor explaining he wanted to take a portion of his building which he is still in the process of building, and get permission to turn it into an accessory apartment that would solve multiple purposes; namely to allow him and his wife to live there so his son and kids could

1 live in the main house and if his son comes home from college he could stay in the
2 apartment. He said that the house is represented as a 4 bedroom house and he understands
3 that the accessory apartment would change the status to a 5 bedroom house which entails
4 checking the leach field. He suggested two ways to keep the 4 bedroom status; to tear out a
5 closet in one of the small bedrooms and turn that room into an office, or take out the partition
6 between two of the bedrooms to turn it into one bigger bedroom.

7 Mr. Dold asked Mr. Barnes, Code Enforcement Officer, if Mr. Tilton were to combine two
8 bedrooms if that would make the septic plan issue mute. Mr. Barnes agreed that it would be
9 an acceptable solution.

10 Mr. Don Graves, abutter, 5 Hillcrest Drive requested the meeting be brought to an end as he
11 and his wife were improperly notified. The Chairman asked him to explain why. He
12 responded that the abutter notice had been addressed to him only, and not to him and his
13 wife, so in theory his wife hadn't been notified. The Chairman said he didn't think there was
14 any statutory authority that indicated every member of the household has to be notified. Mr.
15 Graves said that everybody on the property tax card is required to be notified. Mr. Barnes
16 asked him which RSA stipulated this. Mr. Graves was unable to provide an answer. The
17 Chairman said he would note it, but the meeting should continue.

18 Mr. Dold said it seemed like the simple solution was for Mr. Tilton to tear down the partition
19 between two bedrooms. Mr. Tilton agreed to get a demolition permit to tear down the wall.

20 Mr. Graves said he was a licensed New Hampshire septic designer, saying a person can't
21 create an accessory apartment and trade it for a bedroom in the house. It states in the
22 regulations that a studio apartment equates to 225 gallons, a bedroom is 150 so there is an
23 increased load even if you trade bedroom for bedroom because the State does not recognize
24 an apartment as 150 gallons a day. He said that Mr. Tilton is trading in 600 gallons for 675
25 gallons. Mr. Dold asked if the 1000 gallon septic tank that Mr. Tilton currently has was big
26 enough. Mr. Graves asked when it was built. He was told 1997. He said it wasn't because
27 tank size had increased drastically, 1000 gallons is good for 2 bedrooms but every bedroom
28 thereafter constitutes 150 gallons so the tank size goes up accordingly as does the field size.

29 Mr. Tilton was asked to explain his plan to the Board which he did.

30 Mr. Dold said the Board had been reading RSA676-7 about public notices and he read the
31 section to those present: "Prior to exercising its appeals powers, the Board of Adjustment
32 shall hold a Public Hearing. Notice of the Public Hearing shall be given as follows:

33 a. The applicant and every abutter and holder of conservation preservation or agricultural
34 preservation restrictions shall be notified of the hearing by certified mail stating the time
35 and place of the hearing and such notice shall be given not less than 5 days before the day
36 affixed for the hearing for the appeal. The Board shall hear all abutters and holders of
37 conservation preservation or agricultural preservation restrictions desiring to submit
38 testimony and all non abutters who can demonstrate that they are affected directly by the
39 proposal under consideration. The Board may hear such other persons as it deems
40 appropriate.

41 b. A public notice of the hearing shall be placed in a newspaper of general circulation in the
42 area not less than 5 days before the date is fixed for the hearing of the appeal".

1 Mr. Dold said he felt the RSA was fairly clear and it states abutters must be notified – it
2 doesn't specify details so it seems fairly general. The Board was satisfied that it meant the
3 notice should go to each abutter's address and felt the hearing should continue.

4 The Chairman asked those present if they wanted to talk in support or opposition of the
5 applicant. There were no comments from the public so the public session was closed.

6 The Board went through the criteria for an accessory apartment as stated in the Zoning
7 Ordinance Section 5.4. with the applicant. The applicant was told he needed to have
8 somebody look at his septic tank to prove it was adequate and then he would need to get that
9 approval in writing.

10 Mr. Scamman made a motion that he agrees to the standards provided by the Ordinance are
11 met under the condition that evidence is presented to the Building Inspector that septic
12 facilities are adequate for both units according to the standards of Stratham, New Hampshire
13 Water Supply Pollution Control Division and also that there is adequate potable water and
14 that we receive approval from the Building Inspector in writing. This was seconded by Mr.
15 Karam. The motion was carried unanimously.

16 The Board then voted on the standards laid out in 17.8.2. Everybody agreed the Applicant
17 met the standards.

18 Mr. Graves, abutter asked if he could see the plans. He mentioned that they were missing a
19 key elevation on the west gable. Mr. Tilton said it wouldn't be changing from the footprint
20 he had provided to the Board. Mr. Graves referred back to 5.4.3.d concerning the appearance
21 of the building remaining that of a one family dwelling. Mr. Graves feels the building does
22 not look like that of a single family dwelling. He said if the Board visited the site they would
23 see it, as it is visual. He stated that he doesn't contest the use, but he doesn't think the
24 applicant meets all of the criteria. He was asked how it was changing the appearance of the
25 building. He replied that there is clearly a 6 feet wide footprint on the bottom of the house
26 with a door to the left and right. The Board explained that this was already work done on a
27 prior permit. Mr. Graves argued that now it was about an accessory apartment so the criteria
28 applies. The Board disagreed. They see it as two different projects because he got a permit
29 to build an addition long before deciding to change its use to an accessory apartment. The
30 Chairman tried explaining that they weren't ruling on work that has already been completed
31 prior to the accessory apartment application. Mr. Graves argued that it is a work in progress
32 and that an approval hasn't yet been finalized. He also commented on the state regulations
33 pertaining to expanding a structure; if you do not have an approval of operation, that is no
34 more than a maximum of 20 years old, you have to get a new one. The Chairman said that
35 once again the applicant was not expanding the structure and the Board is asking him to
36 provide additional certification as a result of the additional apartment. The Board reminded
37 Mr. Graves that one of the conditions was for the septic system to be checked by a
38 professional. The applicant was asked when the apartment would be completed. He
39 responded between Thanksgiving and Christmas of this year.

40 Mr. Scamman made a motion to approve a special exception for case # 565 to allow an
41 accessory apartment in accordance with Section 5.4 of the Stratham Zoning Regulations with
42 the following conditions:

- 43 1. The owner shall provide evidence to the Building Inspector as stated in 5.4.3.i. 1.

1 This was seconded by Mr. Short. The motion was passed unanimously. The Chairman
2 informed Mr. Tilton that there is a 30 days appeal period so if he proceeds with the work, he
3 will be doing so at his own risk. The Chairman closed case #565. Mr. Barnes suggested a
4 time period be added to the motion. He suggested 9 months. Mr. Scamman made a motion
5 that the motion already made has to be met in 9 months from October 25, 2011. Mr.
6 Scamman seconded the motion. The motion was carried unanimously. The Chairman closed
7 # 565 again.

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9 **4. Miscellaneous:**

10 The Board reviewed the minutes from August 9, 2011 and September 20, 2011. Mr. Dold
11 asked if anybody had heard any feedback about the Bayer's case since it was passed. Mr.
12 Short said that Ms. Bayer said she would give her phone number to everybody after the
13 meeting, but as far as he was aware, she hadn't done that yet.

14 Mr. Dold made a motion to approve the minutes from August 9, 2011. Mr. Barker seconded
15 the motion. The motion was carried unanimously. Mr. Barker commented that for future
16 minutes, it should be noted who is a voting member. Mr. Karam noted that he was not the
17 person who carried out carpentry at Ms. Bayer's house as stated on page 3 line 8 of the
18 September 20, 2011 minutes, it was Mr. Sharrid. The time of adjournment also needed to be
19 amended to 9.10pm for those minutes.

20 A motion was made by Mr. Scamman to accept the minutes with the amended corrections.
21 Mr. Barker seconded the minutes. The motion was passed unanimously. The Board
22 discussed a possible upcoming case.

23
24 **5. Adjournment:**

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26 Mr. Barker made a motion to adjourn the meeting at 8.07 pm. The motion was seconded by
27 Mr. Dold
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