

ZONING BOARD OF ADJUSTMENT PUBLIC HEARING AND MEETING  
February 8, 2022

A public hearing of the Zoning Board of Adjustment was held on Tuesday, February 8, 2022 at 6:30 PM, both in person at City Hall and via Zoom.

Mariellen MacKay, Chair, asked for a Roll Call.

Mariellen MacKay, Chair  
Steve Lionel, Vice Chair  
Jack Currier, Clerk (on Zoom)  
JP Boucher  
Jay Minkarah  
Nick Kanakis

Carter Falk, Deputy Planning Manager/Zoning  
Kate Poirier, Zoning Coordinator

Mrs. MacKay explained the Board's procedures, saying that real-time public comment can be addressed using Zoom, or by telephone, or in person. Mrs. MacKay said that real-time comments via audio will be addressed at the conclusion of the public hearing, and the public is encouraged to submit their comments for future meetings via email to the Planning Department, which is [Planningdepartment@nashuanh.gov](mailto:Planningdepartment@nashuanh.gov), or by mail, at P.O. Box 2019, Nashua, NH, 03061. Mrs. MacKay identified the points of law required for applicants to address relative to variances and special exceptions. Mrs. MacKay explained how testimony will be given by applicants, those speaking in favor or in opposition to each request, as stated in the Zoning Board of Adjustment (ZBA) By-laws.

- 1. Andrew & Alexa Morrissey (Owners) 24 Vespa Lane (Sheet G Lot 313) requesting variance from Land Use Code Section 190-16, Table 16-3, to encroach between 5'-0" - 7'-0" into the 20 foot required left side yard setback to construct an attached two-car garage with bedroom above. R18 Zone, Ward 2.**

Voting on this case:

Mariellen MacKay, Chair  
Steve Lionel, Vice Chair  
Jack Currier, Clerk  
JP Boucher

Nick Kanakis

Andrew Morrissey, 24 Vespa Lane, Nashua, NH. Mr. Morrissey said that they need the addition for their growing family, they recently had a child and need much more space and updates. He said that the house, as its existing, is just under 1,100 square feet in size, and has only one bath. He said that the addition would be 24'x31'-6", it would have a master suite over a two-car garage and would greatly improve the storage in the basement as well. He said that the garage would be a fully-functioning two-car garage space, which entails an encroachment into the 20 foot setback on the side.

Mr. Morrissey said that since the house does not sit square on the road, the encroachment varies between 5 feet and up to 7 feet. He said that their application is fully complete.

Mr. Currier asked if there were any thoughts on the left side, the building height, if there is any possibility of a reduction on that.

Mr. Morrissey said that at the closest point, they would have 13 feet to the property line. He said that they did a lot of due diligence, and ran through a lot of different options to get what was needed, and to fit the bathroom, which is sorely needed, they couldn't do this addition with a one-car garage. He said that a 24 foot wide garage is a standard size for a two-car garage.

Matt DesSureauult, MB Net Deziqn, Nashua, NH. Mr. DesSureauult said that he is the architect for the addition. He said that as far as the height of the building and the roof line, he said it was designed that way, the way the gable is facing, it will actually allow more light to the neighbor's property, so it doesn't also look like a massive structure.

**SPEAKING IN FAVOR:**

No one.

**SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:**

No one.

**END OF PUBLIC HEARING, BEGINNING OF PUBLIC MEETING:**

Mr. Lionel said that he is in support of the application, and the encroachment is not too big and it is very attractive, and there is support from neighbors as well.

Mr. Currier said that overall he is in support, and there is no opposition. He said that the owner and architect really thought a lot of this and did a lot of research into the design.

Mr. Boucher said that he is in support, it is a reasonable request for a two-car garage, and the house is not square to the front property line.

Mr. Minkarah said that he is in support as well, a two-car garage is a reasonable use in this climate, and the additional home square footage is reasonable, given the small square size of the house, and there is no other place on the lot to do this, the garage size is typical.

Mr. Kanakis said that he is in support, it is a well-thought out plan and they thought of the impact to the neighbors and there are really no negative impacts.

Mrs. MacKay said that she is in support for all the aforementioned reasons.

**MOTION** by Mr. Boucher to approve the variance application on behalf of the applicant as advertised. Mr. Boucher stated that the variance is needed to enable the applicant's proposed use of the property, given the special conditions of the property, and the benefit sought by the applicant cannot be achieved by some other method reasonably feasible for the applicant to pursue, other than the variance; the Board found that the house was built slightly at an angle, and a two-car garage is customary and the lot isn't wide enough to have the two-car garage without the encroachment.

Mr. Boucher said that the request is within the spirit and intent of the Ordinance.

Mr. Boucher stated that the request will not adversely affect the property values of surrounding parcels.

Mr. Boucher said that it is not contrary to the public interest, and substantial justice will be served.

**SECONDED** by Mr. Lionel.

**MOTION CARRIED UNANIMOUSLY 5-0 BY VERBAL ROLL CALL VOTE OF THE MEMBERS.**

2. Elizabeth E. Robbins (Owner) Christine & Carl Robbins (Applicant) 35 Edgewood Avenue (Sheet 60 Lot 97) requesting variance from Land Use Code Section 190-16, Table 16-3 to encroach 4 feet into the 10 foot required right side yard setback to remove an existing attached one-car garage and breezeway and construct a new attached two-car garage. RA Zone, Ward 2.

Voting on this case:

Mariellen MacKay, Chair  
Steve Lionel, Vice Chair  
Jack Currier, Clerk  
JP Boucher  
Jay Minkarah

Christine Robbins, 44 Edgewood Avenue, Nashua, NH. Mrs. Robbins said that they are the applicants for her husband's sister, who owns the property. She said that the house was built in 1951. She said that the house is in need of repair, and the project entails removing a one-car garage and breezeway, and constructing a new attached two-car garage.

Mrs. Robbins said that the outside wall would need to encroach 4 feet into the 10 foot right side yard setback. She said it will not be contrary to the public interest, because the new construction will replace the existing structure that has stood in place since 1951. She said it will meet the front, rear and other side yard setback requirements. She said that the new construction will represent the least intrusive solution possible, and substantial justice will be served by allowing for better use of the property, and the proposed use will not diminish the values of surrounding properties, because the construction will enhance the existing dwelling, and will allow for higher resale in the future. She said that hardship exists because due to the unique placement of the house on the lot, as this will also prevent alternative development.

**SPEAKING IN FAVOR:**

No one.

**SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:**

No one.

**END OF PUBLIC HEARING, BEGINNING OF PUBLIC MEETING:**

Mr. Boucher said that he is in support, and it's clear that this structure is existing and will be replacing the structure and putting in a new garage, and the incursion will be the same, no more than is now.

Mr. Minkarah said that he is in support of the application for the reasons stated, and the garage is a reasonable, customary use, and there is no alternative location.

Mr. Kanakis said that he is in support of the application for the reasons stated.

Mr. Lionel said that he is in favor.

Mr. Currier said that he is in support, the application is complete, and it will not encroach any more than what is existing, and said that is a special condition of the property.

Mrs. MacKay said that she is in support of the application.

**MOTION** by Mr. Lionel to approve the variance application on behalf of the applicant as advertised. Mr. Lionel stated that the variance is needed to enable the applicant's proposed use of the property, given the special conditions of the property, and the benefit sought by the applicant cannot be achieved by some other method reasonably feasible for the applicant to pursue, other than the variance; the Board noted that the footprint is not going to be changed, so there is no increased incursion into the setback, also, the lot is small.

Mr. Lionel said that the request is within the spirit and intent of the Ordinance.

Mr. Lionel stated that the request will not adversely affect the property values of surrounding parcels.

Mr. Lionel said that it is not contrary to the public interest, and substantial justice will be served.

**SECONDED** by Mr. Boucher.

**MOTION CARRIED UNANIMOUSLY 5-0 BY VERBAL ROLL CALL VOTE OF THE MEMBERS.**

3. Poulin Family Trust (Owners) Carole & Michael Poulin (Applicants) 4 Hopkins Street (Sheet 66 Lot 22) requesting variance from Land Use Code Section 190-16, Table 16-3, for minimum land area, 11,495 sq.ft existing - 18,668 sq.ft required - to convert a single-family with an approved accessory dwelling unit into a three-family home. RB Zone, Ward 3.

Voting on this case:

Mariellen MacKay, Chair - **recused**  
Steve Lionel, Vice Chair  
Jack Currier, Clerk  
JP Boucher  
Jay Minkarah  
Nick Kanakis

Carole Poulin, 4 Hopkins Street, Nashua, NH. Mrs. Poulin said that they're making this request because of their son, who is 32 years old and has health issues. She said that he has a difficult time living on his own due to autism, and he cannot drive a vehicle. She said that when he was living on his own, he needed more support. She said that when they bought this house, it had an illegal in-law apartment, and were granted relief by the Board to have it legal. She said that they've been at the house for about seven years. She said that her son, Brandon, is high-functioning and has a job, but has social deficits and is very vulnerable and can be exploited

Mrs. Poulin said that the housing market is difficult, and they thought about getting another home, but nothing is available. She said that the downstairs of their home is very big for her and her husband, and the plan is to keep the footprint of the house and work within the existing space. She said that they'd like to split the downstairs into two units, one for her and her husband to stay in, and the other for their son, and the in-law apartment on the second floor would become an area for a support

person to live in, like a college RA.

Mrs. Poulin said each unit would be one bedroom. She said that she's talked to all their neighbors and gave them a letter describing what they are planning. She said that the house is in a trust, and it will be their son's forever-home, and this is to help plan for when she and her husband are no longer here. She said that Brandon works in Nashua, does all his shopping, knows the system, and gets around on the bus system.

Mr. Minkarah asked what the special conditions are for the property to make it different or distinct, besides the personal family issues.

Mrs. Poulin said it's the location and size of the first floor, it makes it easily able to convert into two units and still have plenty of room, but it's also the location, it is good for access to the bus station, downtown, the library, work. She said that the driveway is large enough, and her son will never be able to drive.

Mr. Currier mentioned the handicap exception.

Mr. Lionel said that RSA 674:33 V states that the Board may grant a variance from the terms of the ordinance without finding a hardship arising from the condition of a premises, subject to the ordinances, when reasonable accommodations are necessary to allow a person or persons with a recognized physical disability to reside in or regularly use the premises, provided that; a) any variance granted under this paragraph shall be in harmony with the general purpose and intent of the zoning ordinance, and b) in granting any variance pursuant to this paragraph, the Zoning Board of Adjustment may provide, in a finding included in the variance, that the variance shall survive only so long as the particular person has a continuing need to use the premises.

Mr. Currier asked if the applicant was aware of this RSA provision, and if there was consideration of that.

Mrs. Poulin said that she is aware of it, and just recently found out about it.

Mr. Lionel asked if she would be willing to accept a condition that the variance would persist only so long as Brandon (son) is living in the house.

Mrs. Poulin asked what would happen if this request is granted, and they go through the process of splitting up the house into the three units, and if something happens to Brandon, would the house have to go back to one unit.

Mr. Lionel said that they're asking for a third unit, and if the Board adds that condition to the variance, and if Brandon was no longer living at the house, then it would go back to two units, it would be the base unit and the accessory unit that exists today, so the third unit would not be legally rentable to anyone. He asked if they would be willing to accept that as a condition.

Mrs. Poulin said that they would, this would be Brandon's forever home.

Mr. Lionel said that variances run with the land, typically, so if this were to be granted as an unconditional variance, it would persist even if the house is sold and everyone moves out, and it would essentially be a three-unit house, and the Board may be uncomfortable with that. He said that the RSA gives the Board the right to grant the request without meeting the hardship requirements. He asked if this would be an acceptable condition.

Mrs. Poulin said it would be.

Mr. Lionel asked if they have someone lined up as a live-in assistant.

Mrs. Poulin said not at this time, they will broach that once this is a possibility. She said that they'd have to work with a vendor agency to help with that.

**SPEAKING IN FAVOR:**

No one.

**SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:**

Mr. Lionel said that the Board has a letter from Philip Roizin, 6 Hopkins Street, Nashua. Mr. Lionel said that in a second letter, he said that he'd be ok with it if the house can't be sold for fifteen years. Mr. Lionel said that the Board cannot

do a condition like that.

**END OF PUBLIC HEARING, BEGINNING OF PUBLIC MEETING:**

Mr. Currier said that if the handicap stipulation is appropriate here, it meets the criteria of that exception, but if the Board looks at just the land, for three units, is fine with approving this with the handicap exception, but would not be ok without it.

Mr. Minkarah said he agrees with Mr. Currier, and would support the request with the stipulation.

Mr. Boucher said he agrees too.

Mr. Kanakis said that he agrees with the Board.

Mr. Lionel agrees, and would vote to approve this with the stipulation that the variance would last only as long as Brandon is living in the house.

**MOTION** by Mr. Boucher to approve the variance application on behalf of the applicant as advertised.

Mr. Lionel said that it's two units plus an ADU.

Mr. Falk said it's two units plus and ADU.

Mr. Lionel said that changing it into three units wouldn't be the right way to do it.

Mr. Falk said that even though there are three kitchens, it's really two units plus an ADU.

Mr. Boucher said that he's approving this as two units plus an ADU, and stated that the variance is needed to enable the applicant's proposed use of the property, given the special conditions of the property, and the benefit sought by the applicant cannot be achieved by some other method reasonably feasible for the applicant to pursue, other than the variance; the Board said that the applicant is looking to care for their son.

Mr. Boucher said that the request is within the spirit and intent of the Ordinance.

Mr. Boucher stated that the request will not adversely affect the property values of surrounding parcels.

Mr. Boucher said that it is not contrary to the public interest, and substantial justice will be served.

Mr. Boucher said that for a special condition, this variance will only last as long as the applicant's son, Brandon, is living in the property, and once he is no longer living in the property, then it would revert back into a single-family with an approved ADU.

**SECONDED** by Mr. Kanakis.

Mr. Lionel repeated RSA 674:33 V, as stated earlier, which gives the Zoning Board permission to have finding included in the variance that the variance shall survive only so long as the particular person has a continuing need to use the premises. He said that the RSA has been sent to all the Board members by staff.

**MOTION CARRIED UNANIMOUSLY 5-0 BY VERBAL ROLL CALL VOTE OF THE MEMBERS.**

4. HODA44 Rev Living Trust, c/o Timothy Hogan (Owner) Timothy Hogan (Applicant) 29 Sullivan Street (Sheet 61 Lot 110) requesting the following: 1) special exception from Land Use Code Section 190-47 (B) for a major home occupation for motorcycle service in a detached garage; and, 2) variance from Land Use Code Section 190-47 (B)(3) to allow home occupation use in a detached accessory structure, where it is required that the home occupation be carried on strictly in principal building. RA Zone, Ward 2.

Voting on this case:

Mariellen MacKay, Chair  
Steve Lionel, Vice Chair  
Jack Currier, Clerk  
JP Boucher  
Jay Minkarah

Tim Hogan, 29 Sullivan Street, Nashua, NH. Mr. Hogan said that the garage was built in 2015, it's detached in the back yard,

like many others in the neighborhood. Mr. Hogan questioned the advertisement, and wanted to ensure that he was being heard for what he wants to do.

\*\*\* Audio difficult to comprehend \*\*\*

Mr. Hogan said that his family has a lot of motorcycles, so that takes some room to maintain those. He said that he is a college instructor.

Mr. Hogan said that he's lived in the neighborhood a long time, and has spoken to the neighbors about their concerns. He said that the neighbors were concerned about noise. He said that the work he does is specialized to motorcycle suspension, primarily for race bikes, so it's just those components. He said that the components he works on are parts that people drop off, shocks and forks, and he services them, and they pick them up. He said that it would be rare for a motorcycle showing up to the property. He said that this is more of a part-time, hobby type of thing, and just wants to do it by the book, and does it all with proper permits. He said that this is his neighborhood too, and is also considerate about noise, and most people that drive by would never know that the garage is back there. He said that one neighbor was initially very concerned and wrote a letter of opposition, and said that he met with them and explained the operation, and now they understand what will be done in the garage, and they re-submitted a letter retracting their initial letter. He said that both abutters on either side of his house have written letters of support. He said that there will be no changes to the structure on the outside, and there will be no signage either.

Mr. Currier said that he believes this is sort of like a machine shop in a way, people leave off parts and he works on them inside, as opposed to RJ Motorsports-type facility. He said that variances run with the land. He asked if the Board were to stipulate that there be no sign, if that would be acceptable. He asked if there are any plans for State of New Hampshire motorcycle inspections.

Mr. Hogan said there will be no State inspections at the site. He said that what he does is very specialized, and has no interest in full safety inspections. He said he would be ok with a stipulation for no signage as well.

Mr. Currier said that he sees this like a machine shop, versus an exterior busy operation. He said that he would be concerned if he moves away and the next owner has different aspirations, and then it's like a Gate City Cycle. He asked if the bikes he works on are non-registered.

Mr. Hogan said that what he does is all pretty high-end stuff.

Mr. Lionel said that while variances do run with the land, there is also a special exception being requested for the major home occupation, and that doesn't run with the land. He said that if the house is sold, and someone else wanted to put in a major home occupation in the detached garage, they'd need to come back before the Board.

**SPEAKING IN FAVOR:**

Mrs. MacKay said that there are letters of support, from:  
Monica Savoie, 27 Sullivan Street, Nashua, NH,  
Nancy and Dave Marden, Pine Hill Avenue, Nashua, NH and from  
Brad Bustedd, 31 Sullivan Street, Nashua, NH

**SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:**

Linda and Gerard Levesque, 26 Pine Hill Avenue, NH submitted a letter in opposition, stating they are concerned about the precedent for more businesses in the future and property values, and they do not want any additional businesses on the street.

**SPEAKING IN FAVOR - REBUTTAL:**

Mr. Hogan said that he has spoken to the Levesque's, and believes that he has addressed their comments. He asked why this would be a major versus a minor home occupation.

Ms. Poirier explained that the request isn't specifically for the use itself, there are a list of requirements, and one of them is that the use must be carried out in the principal structure, and since this is in a detached structure, it cannot meet the minor home occupation requirements, that is why this does not qualify for a minor occupation.

Mrs. MacKay asked if Mr. Hogan has seen the special conditions for a major home occupation, and if he agrees with them.

Mr. Hogan said that he has seen them.

Mr. Falk said that Mr. Hogan has already gone over them, it's just that he doesn't meet #3, but has the associated variance for that one.

Ms. Poirier said that the size requirement is met, as he is not using more than 300 square feet within the garage.

**END OF PUBLIC HEARING, BEGINNING OF PUBLIC MEETING:**

Mr. Minkarah said that he supports the application, it does meet the special exception criteria. He said that for the variance, the question on whether the variance is warranted is whether or not conducting this activity in a detached structure would have any significantly different impacts on the surrounding properties than if it were conducted in an attached structure, like if the garage were attached to the house. He said that there wouldn't be any difference, and it is significant that the neighbors on either side support the application, they are the most impacted.

Mr. Currier asked if Mr. Lionel could reiterate what he said about major home occupations running with the land.

Mr. Lionel said that Mr. Hogan has two applications before the Board, one is for a variance to use the detached structure, and the other is the special exception for the major home occupation. He said that variances run with the land, while special exceptions do not. He said that special exceptions are enforced only as long as the applied-for use is in continuous use, and if Mr. Hogan wanted to change the business to go to something else, or if he sold the house and someone else wanted a different business in the garage, they'd have to come to the Board and request it.

Mr. Currier said that his concern is if the next homeowner sees that there's a motorcycle service approval, and buys the property, but as long as the motorcycle service is continuous, and the major home occupation would continue.

Mr. Falk said that if Mr. Hogan were to sell the property, if someone else were to buy the property, and they wanted another type of a major home occupation, they'd have to come before the Board.

Mr. Currier asked if the next homeowner wanted to continue on with a motorcycle service, and if the use would be allowed to continue.

Mr. Falk said that as long as it's a substantially similar use, and he's not renting it out to a third party and it's the same type of use. He said that some uses would have to come back, like a child day care or a hair salon, those get specific approvals from the Board of Cosmetology or the State of New Hampshire, so they'd have to come back no matter what.

Mr. Currier said that he feels comfortable with the request as long as there is the stipulation of no sign, and Mr. Hogan said he's ok with that.

Mrs. MacKay asked if motorcycle engine repair is a different use.

Mr. Falk said that engine repair, or tuning, or carburetor work is much different than what Mr. Hogan is proposing. He said that engine repair would have to come back to the Board. He said that a 2 square foot sign, stating the owners name and address, is permitted by right, so the Board should be careful to take away a right by the homeowner.

Mr. Boucher said that he is in support of the application, and is comfortable with what was presented.

Mr. Kanakis said that he is in support of the application.

Mr. Lionel said that all of his concerns have been addressed, and is in support.

Mrs. MacKay said that she is in support, it was a good discussion, and any apprehensions were alleviated by the applicant.

**MOTION** by Mr. Boucher to approve the special exception application on behalf of the applicant as advertised. He said that it is listed in the Table of Uses, Section 190-47 (B).

Mr. Boucher stated that it will not create undue traffic congestion or unduly impair pedestrian safety.

Mr. Boucher stated that it will not overload public water,

drainage, sewer or other municipal systems.

Mr. Boucher said that the special regulations have been fulfilled for a major home occupation.

Mr. Boucher stated that it will not impair the integrity or be out of character with the neighborhood or be detrimental to the health, morals or welfare of residents.

**SECONDED** by Mr. Minkarah.

**MOTION CARRIED UNANIMOUSLY 5-0 BY VERBAL ROLL CALL VOTE OF THE MEMBERS.**

**MOTION** by Mr. Boucher to approve the variance application on behalf of the applicant as advertised. Mr. Boucher stated that the variance is needed to enable the applicant's proposed use of the property, given the special conditions of the property, and the benefit sought by the applicant cannot be achieved by some other method reasonably feasible for the applicant to pursue, other than the variance; the Board noted that it is a detached garage, located at the back left hand corner of the property

Mr. Boucher said that the request is within the spirit and intent of the Ordinance.

Mr. Boucher stated that the request will not adversely affect the property values of surrounding parcels.

Mr. Boucher said that it is not contrary to the public interest, and substantial justice will be served.

**SECONDED** by Mr. Minkarah.

**MOTION CARRIED UNANIMOUSLY 5-0 BY VERBAL ROLL CALL VOTE OF THE MEMBERS.**

**MISCELLANEOUS:**

**REHEARING REQUESTS:**

None.

**REGIONAL IMPACT:**

The Board did not see any cases of Regional Impact for the 2-22-22 meeting agenda, per verbal roll call.

**MINUTES:**

1-25-22:

**MOTION** by Mr. Lionel to approve the minutes as presented, waive the reading, and place the minutes in the permanent file.

**SECONDED** by Mr. Boucher.

**MOTION CARRIED UNANIMOUSLY 5-0 PER VERBAL ROLL CALL OF THE VOTING MEMBERS.**

**ADJOURNMENT:**

**MOTION** by Mrs. MacKay to adjourn the meeting at 8:04 p.m.

Submitted by: Mr. Currier, Clerk.

CF - Taped Hearing