

ZONING BOARD OF ADJUSTMENT PUBLIC HEARING AND MEETING
February 22, 2022

A public hearing of the Zoning Board of Adjustment was held on Tuesday, February 22, 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
JP Boucher
Efsthathia Booras (on zoom)

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, 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. Scott & Jill Deshaies (Owners) 8 Osgood Road (Sheet A Lot 533) requesting the following: 1) special exception from Land Use Code Section 190-15, Table 15-1 (#3) to maintain an existing accessory (in-law) dwelling unit; and, 2) variance from Land Use Code Section 190-32 (B)(1) to exceed maximum size of accessory dwelling unit, 750 sq.ft allowed - 930 sq.ft existing. RA Zone, Ward 7.**

Voting on this case:

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

Efstathia Booras

Jill Deshaies, 8 Osgood Road, Nashua, NH. Mrs. Deshaies said that they just had their home appraised, and the property is not compliant with the City, and they thought that the in-law apartment was legal when they bought it. She said that the permit that was pulled prior to them purchasing the house was for an addition, not for an accessory dwelling unit. She said that they are now seeking a special exception for the in-law unit, they will not be changing anything, just want it compliant. She said that they are also seeking a variance for the extra 180 square feet of space that already exists.

Mrs. Deshaies said that the outline of the structure, there is a door that enters into the unit, it goes to a kitchen area where there is a refrigerator, a microwave and a stove, it's a gas stove, and goes into a small dining area and living area, one bedroom with a bathroom. She said that there were permits pulled for the electrical, plumbing, just not for the gas stove. She said all of this was done prior to their purchase of the property, and they're looking to have a family member live there, and they want to be compliant with the City. She said that they meet the special regulation guidelines, it does not look like a two-family dwelling, it looks like a single-family home, there is access via a separate entrance for the unit, there are two front doors but one goes into a pantry, and one goes in the front. She said that the house is set far back from the street, and it fits in the neighborhood and does not look out of place at all. She said that there will be no exterior changes to the house.

Mrs. MacKay asked if they were given the form for the accessory dwelling stipulations, the nine criteria.

Mrs. Deshaies said that she was given the information, and agrees with all of them save the one for the 750 square feet, but a variance is being applied for. She went over the other points, stating that they are all met.

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 the application is very thorough, and has no issue with the special exception. He said that they purchased the home as is, and it appears as if it was always intended to be an in-law unit. He said that he has no issue with it, it's a large piece of property, it's a large house, and the scale of the house and property is not out of place.

Mr. Currier said that he agrees with the application, and it looks to be in character with the neighborhood. He said that if this were a proposal for new construction, he may not be supportive, but this has been there a long time and does seem to be a surprise to these owners that it wasn't legitimized before, and the variance is warranted.

Mr. Lionel said that if this were a new application, he would object to the overage on the square footage, but given the circumstances, does not see any benefit in denying the variance, and is in support.

Ms. Booras said that she is in support of both applications, they purchased it as it is in 2004.

Mrs. MacKay said that she is in support of the applications. She said that if it were new construction, the overage may have been a concern, but it's established already, and was done before they bought the home.

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 190-15, Table 15-1 (#3).

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, and a variance will be considered tonight for the extra square footage.

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. Lionel.

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 stated that the property was purchased with the accessory dwelling unit already in place, and it is a large piece of property, and it is a large house, and it is not detrimental to the neighborhood, and fits right in.

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.

MISCELLANEOUS:

REHEARING REQUESTS:

None.

REGIONAL IMPACT:

The Board did not see any cases of Regional Impact for the 3-8-22 meeting agenda, per verbal roll call.

MINUTES:

2-8-22:

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 Mr. Lionel to adjourn the meeting at 6:53 p.m.

Submitted by: Mr. Currier, Clerk.

CF - Taped Hearing