

Town of Milton
424 White Mtn Highway
Milton NH, 03851



Zoning Board of Adj.
PO Box 310
(p)603-652-4501 (f)603-652-4120

Meeting Minutes
August 24, 2017
6:00 PM

Members in Attendance: Michael Tabory, Bruce Woodruff, Nancy Wing Alt, Brian McQuade,
Also in attendance, Dana Crossley Land Use Clerk
Excused Member: Stan Nadeau, Larry Brown

Public Attendance: John Locke, Karen Locke, Dennis Wing, Denise Gilman, Alice, Stephen, Paul Boges, John Roberge, Rhonda Roberge, Guy Phillips, Mary Beth Phillips, Leslie J. Howlett, Tauia Butler, Michelle St. Lawrence, Joe St. Lawrence, Dan Florres, Wayne Sylvester, Dave Reynolds, Roxanne Reynolds, Frank Bridges, Carol Bridges, Norman Turrigon, Sally Miller, Deborah Blair, Robert Blair, Mary Lane, Lori Smith, George White, John Giunco, Mark Soucy, Barry Barkow, Steve Baker, Judy Boucher, Gene Boucher, Nancy Drew

Chairman Tabory called the meeting to order at 6:00pm.
Chairman Tabory asked N. Wing to sit in for absent member S. Nadeau. Chairman Tabory explained that the board is expecting their fifth member to show up but the applicants will have the option of waiting for a full board or having their case reviewed by a four person board.

Public Comment: None

Case2017-5: Request for a Special Exception from Article III, Section 3.5C (Bed and Breakfast) Table of Principal and Accessory Uses of the Milton Zoning Ordinance to utilize the site for short term rental of basement efficiency for nightly to weekly paying guests at 120 Townhouse Rd, Milton NH. Tax Map 33 Lot 18 in the Low Density Residential Zone. Owner/Applicant: Michelle St. Lawrence: Chairman Tabory asked if all fees had been paid and notices been published. Secretary D. Crossley replied yes. Chairman Tabory asked the applicant if she was fine with a four member board as Larry Brown was not present at the meeting yet. Michelle St. Lawrence present to represent herself agreed the 4 person board was fine.
Michelle St. Lawrence explained that she is asking for a special exception to allow short term rental in her home, this is just like any other short term rental you would see around the lake in any town, what they want to have is nightly guests up to a week at a time, it is just a small scale one (1) person up to four (4) people. She continued there would be no more than two cars in their driveway, they advertise on the site AirBNB which is a travel site, they have had some guest already and people have been extremely satisfied with their lodging, she has provided reviews for the board to see, it is a peaceful, quiet place to room overnight.

1. *That the specific site is an appropriate location for the proposed use or structure:* Michelle St. Lawrence their home is an ideal location for temporary visitors to the town of Milton.

Parking is in the driveway, there is a separate entrance, walkout basement to a large yard and beach.

Public Comment: John Roberge 73 Townhouse: down the street from the home, does not have a problem with it, parking is acceptable, the only stipulation he would ask he owns property all the way down Townhouse and as long as there is no parking along his property or dumping of trash he has no issue. M. St. Lawrence addressed the board that the parking would be within their own driveway. Public comment closed.

Board Discussion: Chairman Tabory questioned that the applicant commented there are other properties that do similar types of things, is that in the same neighborhood. M. St. Lawrence commented that she has noticed along her street (Townhouse), St. James the next street over and Micah Terrace there are signs out at the end of the driveways advertising seasonal rentals. Chairman Tabory replied that the seasonal rentals would be for the full house if he is correct and there would be no one there to monitor the behavior or the number of people there.

Motion: B. McQuade motions that the criteria has been met. B. Woodruff seconds the motion,

Vote: 4-yes 0-No. Motion passed in favor that the site is an appropriate location for the proposed use.

2. *That the use will not be injurious, noxious, offensive or detrimental to the neighborhood:* M.

St. Lawrence testified that guests are required by them to be quiet and respectful of neighbors.

There is a limit of four people at a time, and no more than two vehicles. Rules are explained at check in. Someone in her family is generally on-site to assure peaceful use of the property.

She explained that the reviews show that the peaceful environment is exactly what they are looking for and found there. No pets allowed and no fireworks allowed.

Public Comment: Rhonda Roberge, 73 Townhouse: as far as the noise and fireworks and all of that and her having someone on site...they have a home close to their home that is a rental property and doesn't have someone monitoring the property besides the renters and it is a constant, parties going late, fireworks, kids screaming and general nuisance, as far as the owners living there on the property that negates the problem there as far as she is concerned and she has no problem with this application. Public Comment closed.

Board Comment: No board comment.

Motion: B. Woodruff motions that the criteria has been met. B. McQuade seconds the motion.

Vote: 4-yes 0-No. Motion passed in favor that the use will NOT be injurious, noxious, offensive or detrimental to the neighborhood.

3. *That there will be no undue nuisance or serious hazard to pedestrian or vehicular traffic, including the location and design of access ways and off-street parking:* M. St. Lawrence explained the parking is the driveway and they are limited to two vehicles.

Public Comment: No public comment, public comment closed.

Board Comment: No board comment.

Motion: B. McQuade motions that the criteria has been met. B. Woodruff seconds the motion.

Vote: 4-Yes 0-No. Motion passed in favor that there will be no undue nuisance or serious hazard to pedestrian or vehicular traffic, including the location and design of access ways and off-street parking.

4. *That adequate and appropriate facilities and utilities will be provided to insure the proper operation of the proposed use and structure so that the use will not be contrary to the public*

health, safety or welfare: M. St. Lawrence explained the basement living space is one-level, gas grill is located outside, no smoking, fireworks or pets allowed.

Public Comment: No public comment, public comment closed.

Board Comment: Chairman Tabory asked if their septic is up to code to handle as required the number of bedrooms or however it is judged, do they need additional permitting. M. St.

Lawrence replied she did not know till she talked to the Code Enforcement Officer that they only have a 2 bedroom septic, their plan for handling that is to look into redesigning the septic or they will be only using one bedroom in their home and the second bedroom would be in the basement. Chairman Tabory replied that he is not sure what is required on the DES level of permits but depending on how the board votes, it might be a requirement from this board that their septic meet any of the requirements for DES approval.

Motion: B. McQuade motions that the criteria has been met. N. Wing seconds the motion.

Vote: 4-yes 0-no, Motion passed in favor that adequate and appropriate facilities and utilities will be provided to insure the proper operation of the proposed use and structure so that the use will not be contrary to the public health, safety or welfare.

5. *That the proposed use or structure is consistent with the spirit of this ordinance and the intent of the Master Plan:* M. St. Lawrence stated that allowing short term rentals at this home has been and will continue to be an extremely positive experience for travelers to our town. They are peacefully enjoying the gem of our town by swimming, kayaking and wild-life viewing. They leave with a very positive impression of our community. We recommend area establishments for foods shopping, etc., which helps support small businesses here.

Public Comment: No public comment, public comment closed.

Board Comment: B. Woodruff wanted to point out that the Master Plan does encourage home based or cottage businesses.

Motion: B. McQuade motions that the criteria has been met, N. Wing seconds the motion.

Vote: 4-yes 0-no, Motion passed in favor that the proposed use or structure is consistent with the spirit of this ordinance and the intent of the Master Plan.

Chairman Tabory motions to approve under the condition that any necessary permits state and local for compliance be obtained and the notice decision be recorded at the Strafford County Registry of Deeds.

Board discussion: B. Woodruff asked if the Chairman would entertain a few more conditions, such as, to obtain an amended septic permit from NHDES, all parking shall be on site with no more than two vehicles per rental, each rental be limited to no more than four persons, the seasonal rental use be curtailed shall the applicant sell the property. Chairman Tabory noted he would add those conditions to his motion. B. McQuade seconds the motion.

Vote: 4-yes 0-No. Motion passed and the application approved.

The Special Exception request from Article III, Section 3.5C (Bed and Breakfast) Table of Principal and Accessory Uses of the Milton Zoning Ordinance to utilize the site for short term rental of basement efficiency for nightly to weekly paying guests at 120 Townhouse Rd, has been APPROVED with the following conditions:

- 1. Any necessary state and local permits for compliance must be obtained.**
- 2. Obtain an amended septic permit from NHDES**
- 3. All parking shall be on site with no more than two vehicles per rental**

- 4. Each rental will be limited to no more than four (4) persons.**
- 5. The seasonal rental use will be curtailed shall the applicant sell the property.**
- 6. The notice decision will be recorded at the Strafford County Registry of Deeds.**

B. McQuade motions to go into a short recess to allow the secretary to contact absent member L. Brown. B. Woodruff second the motion. All in favor. Chairman Tabory brought the board back into session at 6:20pm.

Case2017-6: Request for a Variance from Article VII Non-Conforming Uses and Lots Section D Existing Lots of Record to expand a non-conforming structure by adding a 23' x 36' second floor living area on the existing structure at 246 Bolan Rd, Milton NH. Tax Map 23 Lot 74 in the Low Density Residential Zone. Owner/Applicant Leslie Howlett: Leslie Howlett was in attendance of the meeting to present his case. Chairman Tabory explained to the applicant that they are currently a four person board and if he wished to wait for a full board he may request that, as a tie vote loses. L. Howlett chose to move forward with the four person board.

L. Howlett explained to the board the variance is he asking for, the property is an existing single family ranch, they have owned it for about 20 years now, it was originally a small camp that they purchased, they expanded it in 2000 and it became a single family ranch for their family, they are planning to retire in a few years so they would like to put a second floor onto the property, the property has a portion on footings and the other section is over a full walk out basement, the proposal is to add a second floor to the section with basement, which is 22' x 36', the proposal will include a one foot overhang being 23' x 36'. The reason for that overhang is the interior stairway to the second floor needs the extra foot to make a turn at the top of the stairway for a landing, there is also a 1' x 8' first floor bump out for that reason to make a landing. He continued that when they redesigned the property in 2000 they moved the septic system to the back lot so it is well over 175' away from the lake, he feels they have been very responsible in trying to improve the property the right way and make it least impactful as possible the property is in the LDR zone, a pre-existing lot, it has all the frontage and rear setbacks, side setbacks, the variance is because it is only 39 feet from the lake, it does conform to the adjacent properties in setbacks, he has applied and received a permit by notification from NHDES, the improvement adds a couple bedrooms, a bathroom and one of the bedrooms will have a sitting area, the existing bedrooms on the first floor will be converted to a home office and a butler's pantry for kitchen storage.

Chairman Tabory asked if it was because of the extra foot that made this project more non-conforming or if it was the going up. B. Woodruff explained that the variance really is for the expansion of a non-conforming structure, adding bulk to the structure by going up is expanding the non-conforming structure.

1. *The variance will not be contrary to the public interest:* L. Howlett attested the variance will not alter the essential character of the locality. It will remain a single family residential dwelling offering improved living facilities and higher property values to positively increase the area and generate higher tax revenue. There is no threat to public health, safety, welfare from this variance.

Public Comment: None, public comment closed.

Board Comment: B. Woodruff agrees the variance would not be contrary to the public interest because the expanded structure will not be any closer to the lake than the existing structure, this does not do anything bad to the public or quality of the lake water. Chairman Tabory questioned

if there was no house behind them. L. Howlett replied that was correct. B. McQuade commented that it looks fairly wooded on the sides as well.

Motion: B. McQuade motions that the first criteria has been met. B. Woodruff seconds the motion.

Vote: 4-Yes 0-No, Motion passed that the variance will not be contrary to the public interest.

2. The spirit of the ordinance is observed: L. Howlett, the ordinance spirit is observed and in fact enhanced by the proposed improvements. The building height and side yard set backs will remain in compliance for Article VII D – existing lots of record and the existing set back from the lake shall continue to conform to the line of existing buildings on adjacent properties.

Public Comment: None, public comment closed.

Board Comment: None.

Motion: B. Woodruff motions in favor that the criteria has been met. N. wing seconds the motion.

Vote: 4- yes 0-no, Motion passed that the spirit of the ordinance is observed.

3. Substantial justice is done: L. Howlett explained the improvements would do substantial justice to both the applicant and the general public as well as adjacent properties due to the improved residential use, the increased property value influence and the tax revenue increase.

Public Comment: None, public comment closed.

Board Comment: None

Motion: B. McQuade moves that the criteria has been met, N. Wing seconds the motion.

Vote: 4- yes 0-No, Motion passed that substantial justice is done.

4. The values of surrounding properties are not diminished: L. Howlett explained the addition of this second floor to the pre-existing footprint only serves to enhance the value of surrounding properties in that it maintains the residential character and increases the appeal of the neighborhood due to its literal conformity and style.

Public Comment: None, public comment closed.

Board Comment: None.

Motion: B. McQuade moves that the criteria has been met, N. Wing seconds the motion.

Vote: 4-yes 0-no, Motion passed that the values of surrounding properties are not diminished.

5.) Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship: L. Howlett explained that the literal enforcement of the provision would result in unnecessary hardship by limiting the existing property improvements when other adjacent properties have benefited from such second floor additions and improved property values as the highest and best use of the existing lot of record.

Public Comment: None, public comment closed.

Board Comment: None.

Motion: B. McQuade motions that the criteria has been met, N. Wing seconds the motion.

Vote: 4-Yes 0-No, Motion passed that literal enforcement of the provisions of the ordinance would result in unnecessary hardship.

A.) Denial of the variance would result in unnecessary hardship because: (i) No fair substantial relationship exists between the general purpose of the ordinance provision and the specific application of that provision to the property because: L. Howlett attested that the pre-existing structure is located on the lot within the setback of 50' therefore the second floor addition on the same setback does no harm to the general purpose of the ordinance provision and in fact conforms to the line of existing buildings on adjacent properties.

(ii) The proposed use is a reasonable one because: L. Howlett explained that it maintains the setbacks for the existing lot of record requirements it substantially improves the values for the area, it maintains its residential manner and conforms to adjacent properties.

Public Comment: None, public comment closed.

Board Comment: B. Woodruff commented that when reading the applicants justification for the unnecessary hardship criteria, he agrees with both (i) and (ii) arguments, especially the reasonable use and that there is no relationship that exists between the general purpose of the ordinance and what the applicant is trying to do, because he is not changing the footprint, he's not getting closer to the lake he's only going up and in going up he doesn't appear to be affecting the neighborhood by impairing their views.

Motion: B. McQuade motions that the criteria has been met. B. Woodruff seconds the motion.

Vote: 4-Yes 0-No, Motion passed that there is a fair and substantial relationship between the general public purpose of the ordinance provision and the specific application of that provision to the property and the proposed use is reasonable.

Final Review: B. Woodruff motions to grant the variance requested to expand the non-conforming structure with the condition that the applicant reach out to NHDES to confirm that the septic system does not require an amendment and send a copy of the NHDES response to the town and record the notice of decision at the Strafford County Registry of Deeds.

B. McQuade seconds the motion.

Board Vote: 4-yes 0-no in favor to approve variance.

The request for a Variance from Article VII Non-conforming Uses and Lots section D existing lots of records to expand a non-conforming structure by adding a 23' x 36' second floor living area on the existing structure at 246 Bolan Road has been GRANTED with the following conditions:

1. To confirm with NHDES that the current septic system does not require an amendment and send a copy of the response to the Town.

2. Record the notice of decision at the Strafford County Registry of Deeds.

Case2017-7: Request for a Special Exception from Article III Section 3.5 Table of Principle Uses, C. Campgrounds: To expand MiTeJo Campground at 111 MiTeJo Rd, Milton NH Tax Map 28 Lot 4 in the Low Density Residential Zone. Owner Three Ponds Resort, LLC. Applicant SFC Engineering Partnership, INC. Dan Flores with SFC Engineering was in attendance to present the case to the board. Chairman Tabory explained to the applicant that they were a four person board still and that he could chose to move forward with a four person board in which a tie results in a loss or table to a date certain.

D. Flores requested to table the case to a date certain for a full board. Board discussed possible dates for the next meeting.

B. Woodruff would like move to table the case to Thursday September 7th at 6:00pm. N. Wing seconds the motion. Board in favor, case tabled to Thursday September 7th at 6:00 at the Town Hall. The applicant was amicable to the date change.

Chairman Tabory explained to the public that this is the notice of next meeting and there will be the agenda posted as notice as well, people if they are unable to attend the meeting may submit written comments to the board through the Land Use Clerk, he does suggest to that the letters address the criteria that is being addressed in the case. D. Crossley expressed to the public that any letters of concern need to be submitted no later than 4pm on September 7th. B. Woodruff requested that any letters submitted include the address and if they are an abutter. Public questioned if someone was not notified. D. Crossley explained they need to let her know either right after the meeting or during business hours of the Town Hall and it will be addressed then.

Discussion and Approval of Minutes: May 25th 2017 page 10 change 'lost' to 'lots', B. Woodruff moves to approve the minutes with changes noted, B. McQuade seconds, board in favor. (N. Wing abstained). May 25th meeting minutes approved. B. Woodruff moves to approve June 22nd 2017 minutes as written, N. Wing seconds the motion, all in favor (B. McQuade abstained). June 22nd minutes approved.

Other Business: No other business.

B. McQuade motions to adjourn, N. Wing seconds the motion. All in favor, meeting adjourned at 6:57pm.

Respectfully Submitted,

Dana Crossley, Land Use Clerk