

**ZONING BOARD OF ADJUSTMENT
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**Meeting Minutes
April 25, 2013**

Members in attendance: Chairman Mike Tabory, Lue Snyder, Larry Brown, and Mike Beaulieu. Also in attendance was Wendy Keane Land Use Clerk.

Public in attendance: Stan Nadeau, Les Elder, James Hennelly, and Rick Sessler.

Chairman Tabory called the meeting to order at 6:00PM.

Mike explained that Stan Nadeau and Les Elder have both expressed interest in filling the vacant seat on the ZBA.

Larry Brown inquired if the ZBA has the same structure as the Planning Board and other Committees in regards to alternates. Chairman Tabory stated that we do.

Stan Nadeau and Les Elder spoke in regards to their desire to be placed on the ZBA.

MOTION: Larry Brown moved to appoint Les Elder as a full member of the ZBA with Stan Nadeau being an alternate. Mike Beaulieu seconded for discussion purposes. Discussion was held on whether the vote could be a silent vote by way of a paper vote. Larry Brown withdrew his motion.

MOTION: Larry Brown moved to appoint Stan Nadeau as a full member of the ZBA with Les Elder appointed as an alternate. Seconded by Mike Beaulieu. Motion carried 3-0 with Mike Tabory abstaining.

Stan Nadeau and Les Elder met with the Town Clerk to be sworn in.

1. Case # 3013-2: James Hennelly and Lori Folts applicants: Application for a Special Exception from Article III to expand the use of the property located at 38 Kingsbury Drive by adding a full foundation to the property. Property is a .15 acre lot located in the High Density Residential District.

Chairman Tabory stated that in accordance with the Zoning Ordinance there are 5 criteria to pass to be granted a Special Exception. He further explained that the Board will do a nonbinding straw pole at the end of each explanation of each criterion. Then the Board will have an overall vote of the entire application at the end, which is binding. He reminded the applicant that an abutter, applicant, or others may make an appeal to the decision within 30 days of this meeting.

Mr. Hennelly explained that his cottage presently sits on piers and he would like to add a full foundation to preserve the integrity of the house and to convert it to year round use.

Criteria for Special Exception:

1. That the specific site is an appropriate location for the proposed use or structure. Mr. Hennelly stated that as recent as 10 years ago a full foundation was put under 36 Kingsbury Drive and he feels that his site can handle the addition of a full foundation and will improve the site. Mike B inquired of the footprint will change. Mr. Hennelly stated that the footprint will remain the same and that the elevation of the structure may raise 1-2 feet depending on what the encounter while digging the foundation. He further stated that the potential elevation change will not hinder any neighbors. Larry Brown inquired of the applicant lives at 36 Kingsbury Drive. Mr. Hennelly said that he lives in Somersworth but in the future would like to make Milton his year round residence.

Public Comment Session was opened. There being no comments it was then closed.

2. That the use will not be injurious, noxious, offensive or detrimental to the neighborhood. Larry Brown inquired what the remainder of the neighborhood is like. Specifically is it year round residences or camps. Mr. Hennelly stated that the neighborhood is primarily cottages at this time, although more people seem to be upgrading their homes. Mr. Hennelly said that he presently has approximately 754 square feet of living area and by adding the basement it will increase to approximately 1300 sf. Stan Nadeau inquired about the heating system and particularly the “jogged out” area showing on the proposed sketch. Mr. Hennelly stated that at present there is a floor heater that needs to be upgraded and that the area Mr. Nadeau is referring to on the sketch exists presently.

Public Comment Session was opened. There being no comments it was then closed.

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. Mr. Hennelly stated that the site as it is has runoff as the structure sits on a slight hill. On side of the property used to have trees however they were dying and needed to be removed and only the stumps are there now. He would like to remove the stumps and replace with sod, soil and grass along with other vegetation to mitigate the runoff. Larry Brown stated that the Shoreland Protection Act (SPA) should be adhered to with their proximity to the water. Mr. Hennelly stated that the stumps are outside of the restricted area for the SPA and the improvements planned to the site will be better for the stormwater protection. Mr. Hennelly also made the Board aware that there would not be any change to the driveway or an increase of traffic.

Public Comment Session was opened. There being no comments it was then closed.

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. Mr. Hennelly said that there was a new septic installed 3 years ago and that it is a better system with a smaller leach field. He explained that the system has plastic balls

in it that the bacteria grows around and irrigates the system more efficiently. The system needs to be checked every three years by the company that installed it to maintain the warranty. Stan made the Board aware that there is not a well on the property and that the home is on town water. Chairman Tabory inquired what the unnamed room on the plan is. Mr. Hennelly said that the septic is a 2 bedroom system and at this time the two bedrooms are very small. In the future he may decide to open the two rooms in the upstairs to make one larger bedroom and put the second bedroom in the basement. The proper codes in regards to egress will be followed for basement living area.

Public Comment Session was opened. There being no comments it was then closed.

5. That the proposed use or structure is consistent with the spirit of this ordinance and the intent of the Master Plan. Mr. Hennelly opined that this project will improve the property.

Public Comment Session was opened. There being no comments it was then closed.

Larry Brown inquired if this would need to go before the Planning Board. Wendy Keane stated that it would not and that the Code Enforcement Officer is aware of this proposed project and is just waiting on the decision of the ZBA in regards to the Special Exception.

Lue Snyder inquired if there is a plan to put a kitchen in the downstairs and make it a two family dwelling. Mr. Hennelly stated that it is intended to be a single family dwelling.

MOTION: Chairman Tabory moved to accept and approve the application for a Special Exception with the condition that DES regulations are followed and the fees are paid. Larry Brown seconded the primary motion with the amendment that the application for Special Exception be approved as moved by the Chairman with the addition that it is accepted for the items under the purview of the ZBA. Seconded by Mike Beaulieu. Motion carried 5-0.

There was a brief discussion on insulation and Mr. Hennelly responded that the insulation will be blown in.

MOTION: Mike Tabory moved to appoint Lue Snyder as Vice Chairman. Seconded by Stan Nadeau. Motion carried 4-0 with Lue S. abstaining.

Discussion was held on the application for a Special Exception and that it does not contain the criteria for approval as does a variance application.

Larry Brown suggested a disclaimer of sorts that the decision of the ZBA is purview to the actions not under the control of the ZBA.

Wendy Keane stated that she will write up a draft of a new application with the added criteria as well as send draft copies of amended bylaws to the Board.

MOTION: Lue Snyder moved to adjourn. Seconded by Mike Tabory. Motion carried 5-0.

4.25.13ZBA

Meeting adjourned at 6:50PM

Respectfully submitted,

Wendy L. Keane
Land Use Clerk