Hopkinton Zoning Board of Adjustment
Minutes
June 6, 2006

Chairman Janet Krzyzaniak opened the Hopkinton Zoning Board of Adjustment meeting of June 6, 2006, at 7:00 PM in the Town Hall. Members present: Charles Koontz, Toni Gray, and Harold Perkins.

Chairman Krzyzaniak gave a brief outline of the Rules of Procedure that govern the hearing.

I. Applications.

TH06-2S-6-1 John D. Hamilton—Marsha Hamilton addressed the Board requesting a Special Exception to convert her single family residence into a two family (in-law apartment) in the R-4 (residential/agricultural) district. The property is located at 82 Clarke Lane, shown on Tax Map 264 as Lot 35. The application was submitted in accordance with Table of Uses 3.6.A.2 of the Hopkinton Zoning Ordinance. Mrs. Hamilton began by explaining how important it is to have her in-laws live closer to her family.

Mrs. Hamilton reviewed the requirements for Special Exception in accordance with Section 15.8.2 of the Hopkinton Zoning Ordinance.

1. Standards provided by this Ordinance for the particular use permitted by special exception.

   "Table of Uses 3.6.A.2 permits two-family dwellings by special exception."

2. No hazard to the public or adjacent property on account of potential fire, explosion or release of toxic materials.

   "There will be no hazard to the public or adjacent properties because the intended use is for a residence for our parents who are in their mid 80's and are looking for the convenience and security of living with us. Thankfully they are both in good health and are not in need of any special accommodations."

3. No detriment to property values in the vicinity or change in the essential characteristics of a residential neighborhood on account of the location or scale of buildings and other structures, parking areas, access ways, odor(s), smoke, gas, dust, or other pollutant, noise, glare, heat, vibration, or unsightly outdoor storage of equipment, vehicles or other materials.

   "We have Mid Holmes as our architect and she has carefully designed the addition to enhance our homes present appearance. There is no front or side entrance that can be seen from the street that would indicate that there was an additional residence attached to our home. Our main entrance will be enhanced to accentuate the single dwelling appearance that we are going to maintain."

4. No creation of a traffic safety hazard or a substantial increase in the level of traffic congestion in the vicinity.

   "Our parents have one vehicle that will be parked in a garage and not left out. There will be less traffic than times when family and friends come to visit. They will come and go less frequently than anyone that is presently living on Clarke Lane."

5. No excessive demand on municipal services, including, but not limited to, water, sewer, waste disposal, police and fire protection, and schools.

   "There will be no excessive demand on municipal services because we have our own well and septic system, which has been tested and is more than adequate for the additional usage that two people will add. We do have an approved back up septic system on file with the State of New Hampshire should there ever be a problem we are prepared to make the necessary corrections. There will be no additional impact on the school system since they have no children entering the Hopkinton School District."

6. No significant increase of storm water runoff onto adjacent property or streets.

   "We have 7.85 acres and our home sets 300 feet back from the main street and there is a natural run off on our property with good filtration. Our addition has been carefully planned with consideration for the drainage necessary for the new addition. Our dwelling is positioned several yards away from our adjacent neighbors' homes, assuring no increase in storm water runoff than what already exists."

7. An appropriate location for the proposed use.

   "We live in a residential/agricultural zoned area and our intention is for our parents to reside with us in their independent living space, which is within the characteristics of what this area is designated for. We are requesting this exception to provide a convenient and secure residence for our parents who presently live in Whitinsville, MA which is almost two hours of travel time one way if they need us. In that amount of time if there should be an emergency it would be a crisis before we could arrive to help. By having them return to NH and live with us at 82 Clarke Lane they can remain independent and have the security that we are just an intercom call away should they need us, and we have the added benefit of enjoying our time with them now and are there when they need us. Our home has always been the gathering place for both our families and now they can participate with all family occasions. Having them live so far away has made it difficult if not impossible for them to make the long trip for the many special occasions that arise with children, grandchildren and great-grandchildren."

8. Not affect adversely the health and safety of the residents and others in the area and not be detrimental to the use or development of adjacent or neighboring properties.

   "There is no possibility of any adverse health or safety affects on the residents on Clarke Lane. The design that we are proposing for the addition will not change the front appearance of our home. From the street our residence will continue to look like a one family residence because there will only be one front door and the proposed entrance to the in-law apartment will be around the back of our home. Since their car will be parked in our garage they will also be accessing their apartment through our home."

9. In the public interest and in the spirit of the ordinance.

   "Our property is zoned residential/agricultural and our proposed addition will be used as a residence which is in the spirit of the ordinance. There will be two additional people living on our property which is similar to the usage that we would experience with our normal flow of visits from family and friends."

Non-abutter John Malloy of 94 Hedgerose Lane expressed concern over the use of the property as a two-family dwelling. Mr. Malloy believed that it could financially impact the value of this property. He understood that the Town does not have provisions for in-law apartments, but rather two-family dwellings. While he complemented the design of the addition, he expressed concern that others in the future may not design their additions as well.

Non-abutter Erick Wheeler of 52 Hedgerose Lane expressed similar concerns of Mr. Malloy. He believed that the Board may be setting a precedent should request be approved.

In response to Mr. Malloy and Mr. Wheeler, Mrs. Hamilton stated that she understood their concerns with their investment in their property, but believed that a family is a greater investment. She noted the amount of work that has been given to the design of the addition.

Mr. Malloy again expressed concern that the next person that is interested in having a two-family dwelling might not have the same foresight as the Hamiltons.

Chairman Krzyzaniak explained how the application is reviewed based on its own merits and just because one application was approved does not mean the next will be. She then noted that the Ordinance permits two-family dwellings by special exception.

Mrs. Wheeler expressed concern over the fact that the residence may be sold having a rental unit. Mrs. Hamilton agreed to limit the use of the apartment to family members.

Chairman Krzyzaniak confirmed whether there would be a kitchen in the apartment. Mrs. Hamilton replied yes.

Mrs. Gray was uncomfortable imposing a condition limiting the use of the apartment when the Ordinance allows two-family dwellings with no restrictions to it being a rental unit.

Motion made by Mr. Koontz, seconded by Mrs. Gray, to approve Application TH06-2S-6-1 as presented. Motion carried unanimously (Koontz, Gray, Perkins, and Krzyzaniak).

TH06-3S-6-2 Carol Leonard—Ms. Leonard addressed the Board requesting a Special Exception to provide esthetician services as a Home Business. The property is located at 585 Hopkinton Road in the R-4 (residential/agricultural) district, shown on Tax Map 264 as Lot 27. The application was submitted in accordance with Table of Uses 3.6.A.8 of the Hopkinton Zoning Ordinance.

Ms. Leonard referred to a site plan and floor plan that she had included with her application, explained that the space that was formerly used as her birthing center will now be used for esthetician services. Ms. Leonard has since retired from midwifery and now wishes to provide skin care services. She estimated the hours of operation as three days a week with one person an hour (Tuesday, Wednesday and Thursday from 8:30 AM to 4:30 PM).

Ms. Leonard reviewed the requirements for Special Exception in accordance with Section 15.8.2 of the Hopkinton Zoning Ordinance.

1. Standards provided by this Ordinance for the particular use permitted by special exception.

   "Table of Uses 3.6.A.8 allows Home Businesses in accordance with Section III, paragraph 3.7.3."

2. No hazard to the public or adjacent property on account of potential fire, explosion or release of toxic materials.

   "There will be no toxic materials and no increase in the potential for fire or explosion."

3. No detriment to property values in the vicinity or change in the essential characteristics of a residential neighborhood on account of the location or scale of buildings and other structures, parking areas, access ways, odor(s), smoke, gas, dust, or other pollutant, noise, glare, heat, vibration, or unsightly outdoor storage of equipment, vehicles or other materials.

   "There will be no change to the exterior of the structure, nor the existing grounds. Adequate parking already exists. Actually, there will be no change to the interior of the structure as it is already perfect."

4. No creation of a traffic safety hazard or a substantial increase in the level of traffic congestion in the vicinity.

"There will be no traffic safety hazard and no increase in the level of congestion. I intend to be open Tuesday, Wednesday and Thursday from 8:30 AM to 4:30 PM. This means that there would be one car per hour which is less activity than when families were celebrating a newborn."

5. No excessive demand on municipal services, including, but not limited to, water, sewer, waste disposal, police and fire protection, and schools.

   "My home is served by a private, high yield wetland and large volume sewage disposal system. The potential for use of police and fire services would be the same as any family residence."

6. No significant increase of storm water runoff onto adjacent property or streets.

   "A one car parking area as required by the regulations already exists and is located in a spot well away from and down slope from property lines and the street. It is a paved area and drainage is absorbed on-site."

7. An appropriate location for the proposed use.

   "The great distance off the road, the fields, the woods and gardens, all contribute to the country charm of the site, yet it is within a few minutes of Concord for an easy commute for clients."

8. Not affect adversely the health and safety of the residents and others in the area and not be detrimental to the use or development of adjacent or neighboring properties.

   "There will be no physical/structural changes to the property and there will be no change in the character of the site. The use will be in keeping with the residential character of the neighborhood and will not be detrimental to use or development of adjacent properties."

9. In the public interest and in the spirit of the ordinance.

   "The intent of the Ordinance is to allow for Home Businesses in the residential zone and the spirit is to facilitate those pursuits which would best support and exist harmoniously within it."

Mrs. Gray informed Ms. Leonard that if she should ever extend her days and hours of operation that she would have to come back before the Board, unless she wishes to change her hours at this time. Ms. Leonard agreed, stating that she would like permission to be open five days a week from 8:30 AM to 4:30 PM.

Mr. and Mrs. Wheeler of 52 Hedgerose Lane addressed the Board in favor of Ms. Leonard's proposal.

Mr. Malloy of 94 Hedgerose Lane addressed the Board indicating that he was not opposed to Ms. Leonard continuing to operate a business from her home.

With there being no rebuttal public testimony was closed.

Motion made by Mrs. Gray, seconded by Mr. Koontz, to approve Application TH06-3S-6-2 as submitted. Motion amended by Mrs. Gray, seconded by Mr. Koontz, to approve the application as presented, rather than as submitted. Motion carried unanimously (Koontz, Gray, Perkins and Krzyzaniak).

II. Review of the Minutes and Notice of Decision of November 1, 2005, March 7, April 4, May 2 and May 16, 2006.

Motion made by Mr. Koontz, seconded by Mrs. Gray, to approve the Minutes and Notices of Decision of November 1, 2005, March 7, April 4, May 2 and May 16, 2006. Motion carried unanimously.

III. Other Business.

John Malloy of 94 Hedgerose Lane re-addressed the Board to discuss the classification of residences as two-family dwellings rather than in-law apartments. Following brief discussion, the Board suggested that Mr. Malloy discuss his concerns with the Planning Board as the Planning Board is the Board primarily responsible for proposing amendments the Zoning Ordinance, or that he submit a zoning petition within the legal time frame necessary for the March 2007 ballot.

IV. Adjournment.

Chairman Krzyzaniak declared the meeting adjourned at 8:10 PM. The next regular scheduled meeting of the Board is Tuesday, July 5, 2006, at 7:00 PM in the Town Hall.

Karen L. Robertson
Planning/Zoning Director

Pursuant to New Hampshire RSA 674:2, any party to the action or proceedings, or any person directly affected thereby, may apply for a rehearing. Application, in writing, must be submitted to the Zoning Board of Adjustment within thirty (30) calendar days beginning the date upon which the Board voted to approve or disapprove the application. Such a request must set forth the grounds on which it is claimed the decision is unlawful or unreasonable. The Board must decide to grant or deny the rehearing within thirty (30) days.