

Hopkinton Zoning Board of Adjustment
Minutes
April 1, 2008

Chairman Janet Krzyzaniak opened the Hopkinton Zoning Board of Adjustment meeting of Tuesday, April 1, 2008, at 7:20 PM in the Town Hall. Members present: Harold Perkins, Toni Gray, Charles Koontz, John Boatwright and Daniel Rinden.

Chairman Krzyzaniak gave a brief outline of the Rules of Procedure that will govern the hearing. She then noted that Daniel Rinden is an alternate that will participate in the hearing process as a non-voting member.

I. Applications.

#ZO2008-00002 Jeffrey W. & Patricia J. Shorter: Jeff Shorter of 15 Lee Road, Woburn, Massachusetts addressed the Board requesting approval an AREA VARIANCE for the purpose of constructing a new single-family residence with less than the required front and rear setback for the R-4 (residential/agricultural) district. The property is located at 47 Dustin Road, shown as Map/Lot: 224/18.

Mr. Shorter presented photographs to the Board of the mobile home that currently sits on the property that will be removed just prior to construction of the new residence. Mr. Shorter proposes to construct a 2,100 square foot residence with a front setback encroachment of approximately 46 square feet, based on the size of the proposed front entryway to the home. The rear setback encroachment will be less 4.57 feet to the placement of the home. In considering the location of the existing driveway, proposed well and proposed septic system, Mr. Shorter stated that he is limited as the placement of the home on the property. He suggested that a reduction of the proposed rear setback would require a re-design of the kitchen. Mr. Shorter then emphasized the benefits to the Town by him replacing the non-conforming mobile home with a new residence that will be professionally landscaped.

Mr. Shorter reviewed the standards for Variance in accordance with Section 15.8.3 of the Hopkinton Zoning Ordinance.

1. The proposed use would not diminish surrounding property values because:

"We plan to remove the existing non-conforming mobile home and construct a residence on the same lot that will be professionally landscaped. The alternative would be to rent out the mobile home."

2. Granting the variance would not be contrary to the public interest because:

"The proposed structure will be pleasantly pleasing as compared to the existing mobile home."

3. By granting the variance substantial justice would be done because:

"The abutters have been approached and are interested in having the mobile home removed from the property. The mobile home currently sits approximately 2-feet from the front property line."

4. The spirit and intent of the Ordinance will not be broken by granting the variance because:

"The removal of the mobile home and construction of a new residence on the same property will improve the non-conformity. The proposed new home will be further away from the property lines than what presently exists."

5. Special conditions exist such that literal enforcement of the ordinance results in unnecessary hardship.

- (a) An area variance is needed to enable the applicant's proposed use of the property given the special conditions of the property.

"Giving the size of the property, the location of the proposed home, septic system and well is limited."

- (b) The benefit sought by the applicant cannot be achieved by some other method reasonably feasible for the applicant to pursue, other than an area variance.

"We have looked at many home designs in considering a design that would best fit on the lot and have tried to keep the design to a modest 2,100 square feet."

Chairman Krzyzaniak informed Mr. Shorter of the Board's conversation with Mrs. Shorter during a previous meeting. During that time, the Board advised Mrs. Shorter of the importance of providing precise information. She was also informed of the fact that if the application were denied the matter could not be brought back before the Board at a later date. Chairman Krzyzaniak believed that Mr. Shorter is no more prepared than Mrs. Shorter was one month ago. She understood Mr. Shorter's argument that the removal of the mobile home and construction of the new home will improve the property; however, she did not believe that he had adequately addressed item 5 (a) and (b) of the Variance criteria.

Mr. Shorter stated that the benefit cannot be achieved by some other method due to the lot size. He again stated that the size of the lot was considered when determining the location of the proposed home, septic system and well.

Mrs. Gray questioned whether Mr. Shorter had considered the size of the proposed home as it relates to the setback requirements. In other words, if the design of the home were reduced the setbacks may not be an issue. In response, Mr. Shorter was not in favor of reducing the size of the home, noting that removing the 2-foot bump out in the rear of the home would require a redesign of the kitchen, including doorways.

Mr. Perkins inquired whether the plans of the home were predesigned. Mr. Shorter replied yes.

Mr. Perkins then asked whether the front entryway/porch is to be enclosed. Mr. Shorter replied no, referring to the architectural drawing showing the design of the entryway. Mr. Boatwright noted that the entryway/porch will not be living space.

There was no one present wishing to provide public comment.

At this point, Chairman Krzyzaniak welcomed students of a Hopkinton High School civics class who were present to observe the hearing.

Mrs. Gray asked for clarification as to the number of bedrooms proposed within the home. Mr. Shorter stated that the proposal is to construct a 4-bedroom residence.

Mr. Boatwright suggested that the removal of the non-conforming mobile home would be a substantial benefit to the public. Mrs. Gray concurred; however, expressed concern that the Applicant has not made an effort to reduce the size of the house in order to meet the setback requirements.

Mr. Perkins also concurred with Mr. Boatwright. He too suggested that the size of the proposed home may need to be reduced. In an effort to increase the setback it was suggested that the Applicant consider removing the 2-foot kitchen extension.

Mr. Koontz suggested that the granting of the Variance would be a "small price to pay" for the removal of the non-conforming mobile home.

At this point, members reviewed the site plan with Chairman Krzyzaniak stating that the home could be constructed so that it is longer rather than wider in an effort to meet the setbacks.

Motion was made by Mr. Koontz, seconded by Mr. Perkins, to vote on the application as presented. Motion carried unanimously. With five members voting, three voted in favor (Koontz, Perkins and Boatwright) and two voted in opposition (Krzyzaniak and Gray). The majority of the Board agreed that the Applicant adequately addressed the criteria for a Variance set forth in paragraph 15.8.3 of the Hopkinton Zoning Ordinance.

#ZO2008-00003 William P. Doehring: William Doehring of 1390 South Road addressed the Board requesting a SPECIAL EXCEPTION to designate his residence as a two-family dwelling in the R-4 (residential/agricultural) district. The property is located at 1390 South Road, shown as Tax Map 254 as Lot 5. The application was submitted in accordance with Table of Uses 3.6.A.2 of the Hopkinton Zoning Ordinance.

Mr. Doehring began by explaining that in March of 2003, he was approved a permit to construct a 16' x 30' addition to his residence which was initially going to be a family room and home office. Shortly after receiving the permit Mr. Doehring's father-in-law become seriously ill. Mr. Doehring and his wife then decided to convert the addition into a bedroom and living room. At the same time, they had also decided to construct a kitchen and bath within the existing structure.

Previously, Mr. and Mrs. Doehring owned a home at 186 Main Street which was within the Hopkinton Village Precinct. Mr. Doehring explained that he had been advised by the Precinct that he could do construction without a building permit as long as the construction took place

within the existing home. Since he moved a few miles away onto South Road, he believed that the same rules applied. Therefore, he was not aware that a permit was required for the construction of the kitchen and bath. The matter was brought to his attention during an appraisal of his home for a relocations sale.

Mr. Doehring reviewed the standards 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.

“The Ordinance allows residential uses within the district which would allow another unit for elderly in-laws who cannot afford rising housing costs.”

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

“There is no hazard to the public or adjacent property since all changes are within the existing home. There is no potential fire, explosion or release of toxic materials.”

- 3) No detriment to property values in the vicinity or change in the essential characteristics of the neighborhood on account of the location or scale of buildings and other structure, 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 is no detriment to property values in the vicinity or change in the essential characteristics of the residential neighborhood since all changes are within the existing structure.”

- 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 creation of a traffic safety hazard since our three vehicles are consistent with other families in the neighborhood.”

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

“There is no excessive demand on municipal services since we only have five in the household which is consistent with other families and homes in the neighborhood.”

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

“There is no significant increase of storm water runoff whatsoever.”

- 7) An appropriate location for the proposed use.

“The proposed use will and is all within the existing structure of the home and the addition that was approved in March of 2003.”

- 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 affect adversely to the health and safety of the residents and others in the area.”

- 9) In the public interest and in the spirit of the Ordinance.

“This use would allow us to provide necessary housing for my mother-in-law which would be within the guidelines and spirit of the Ordinance.”

Mr. Rinden inquired as to whether there is a separate entrance for the apartment. Mr. Doehring replied no, stating that when you enter the home on the first floor is the apartment and the second floor is the main house.

Motion made by Mr. Boatwright, seconded by Mr. Perkins, to vote on Application #ZO2008-00003 as presented. Motion carried in the affirmative. With five members voting, all five voted in favor (Gray, Koontz, Perkins, Boatwright and Krzyzaniak) of approving the application. The Applicant adequately addressed the criteria for a Special Exception set forth in paragraph 15.8.2 of the Hopkinton Zoning Ordinance.

II. Review of the Minutes and Notice of Decision of March 4, 2008.

Mrs. Gray, seconded by Mr. Perkins, moved to approve the March 4, 2008 Minutes and Notice of Decision as presented. Motion carried unanimously.

III. Adjournment.

Motion made by Mrs. Gray, seconded by Mr. Koontz, to adjourn at 8:30 PM. Motion carried unanimously. The next regular scheduled meeting of the Board is Tuesday, May 6, 2008, at 7:00 PM in the Town Hall.

Karen L. Robertson
Planning/Zoning Director

Pursuant to New Hampshire RSA 677:2, 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.