

1 **HOOKSETT ZONING BOARD OF ADJUSTMENT**
2 **Tuesday, April 11, 2023**
3 **HOOKSETT MUNICIPAL BUILDING**
4 **35 Main Street**
5 **Meeting Minutes**
6 **6:30 pm**

7
8 **CALL TO ORDER**
9

10 Anne Stelmach (Chairman) called the regular meeting to order at 6:37 pm.

11 **PLEDGE OF ALLEGIANCE**
12

13 **ATTENDANCE:** Anne Stelmach (Chairman), Richard Bairam (Vice-Chairman), Timothy
14 Stewart, Gerald Hyde, and Roger Duhaime (Town Council Representative) (arrived at 6:42 pm).

15 **ALTERNATES:** Alex Glennon, Matt St. Pierre, and Tony Lacasse (Alternate) (arrived at 6:41
16 pm)

17 **EXCUSED:** Phil Denbow

18 **NOT PRESENT:**

19 **STAFF:** Dana Pendergast (Code Enforcement Officer)

20 **APPROVAL OF MINUTES:** February 9, 2023

21 *R. Bairam motioned to table the approval of the February 9, 2023 minutes until the May 9,*
22 *2023 ZBA meeting. Seconded by G. Hyde. Motion carried unanimously with a vote of 5-0.*
23

24 Alex Glennon will be a voting member this evening.
25

26 **CONTINUED PUBLIC HEARING:**
27

28 **Jack & Cindy Gagne #Z22-20**
29 **26 Hale Ave, Map 45 Lot 21**
30 **URD**
31

32 ***Comments from Planning Board**
33

34 **APPLICATION FOR A SPECIAL EXCEPTION:**

35 From **Article 5A Section B.2** of the Zoning Ordinance to permit: To an existing 2 car garage we
36 are looking to add a one-bedroom apartment with approx. 800sqft.
37

38 D. Pendergast read a letter of support from the Planning Board to Anne Stelmach, Chair dated
39 March 22, 2023 into the record.
40

41 A. Stelmach read the criteria into the record.

42

43 **Open public hearing.**

44 **No public comments.**

45 **Close public hearing.**

46

47 D. Pendergast: A special exception is allowed by right so if they meet the requirements then it
48 would get approved.

49

50 ***G. Hyde motioned to grant the Application for a Special Exception from Article 5A Section***
51 ***B.2 of the Zoning Ordinance to permit an existing 2 car garage we are looking to add a one-***
52 ***bedroom apartment with approx. 800 sq. ft. for Jack & Cindy Gagne #Z22-20, 26 Hale Ave,***
53 ***Map 45 Lot 21, URD. Seconded by R. Bairam. Motion carried unanimously with a vote of 5-***
54 **0.**

55

56 **Derek Armstrong & Lisa Lowe #Z23-01**

57 **16 Cindy Dr, Map 43 Lot 57-1**

58 **MDR**

59 **APPLICATION FOR A VARIANCE:**

60 From **Article 5 Section A.2** of the Zoning Ordinance to permit: To permit a 2 family Dwelling
61 (Duplex) on a lot this is not served by municipal sewer.

62

63 Peter Stoddard (S&H Land Services): They are looking to add a one-bedroom apartment for
64 Derek's mother.

65

66 D. Armstrong: My mother lives in Pittsburg, NH. We are trying to get her down here where we
67 can take care of her. It is hard to find housing at this time, so we are trying to add an apartment.

68

69 P. Stoddard: They cannot meet the requirements of a common wall and shared egress for an
70 ADU; therefore, he is asking for a variance for a two- family. They are allowed in this zone with
71 frontage and town sewer. The town and state approved the septic for a one-bedroom apartment.
72 The hardship is there is no sewer on Cindy Drive. It is the right move to design a state approved
73 septic.

74

75 R. Duhaime: Are you adding a septic?

76

77 P. Stoddard: They have approval for a new one. The plan has been approved to prove the lot can
78 support this and if the existing system goes into failure, you have a backup plan. Part of the de-
79 sign will require a new septic tank.

80

81 R. Duhaime: You will move the tank that is there now, and you will add a bigger one?

82

83 P. Stoddard: Yes.

84

85 A. Stelmach: Are you moving the leach field?

86

87 P. Stoddard: That is the proposed leach field. The existing one will stay where it is. You are re-
88 quired to be 25' away from the property line and that is what we would do.

89
90 A. Stelmach: Is there a fake facade so it is a side entrance?

91
92 P. Stoddard: It is designed like an accessory dwelling and would look like a single-family home.

93
94 D. Armstrong: There will be a false door and a three-bay garage. The is behind the property and
95 the neighbors would never see it.

96
97 P. Stoddard read the criteria into the record.

98
99 T. Lacasse: Why is it difficult to not have a shared door?

100
101 D. Armstrong: I have a two-bay garage and a full bath and kitchen. There is no way to get into
102 the back of the house to put in a door.

103
104 T. Lacasse: You couldn't construct the ADU on the opposite side of the house?

105
106 D. Armstrong: I don't have enough land on that side. It would not work the way the property is
107 laid out.

108
109 T. Stewart: Are there any other two-families in the area?

110
111 P. Stoddard: There are other ADU's in the area.

112
113 G. Hyde: I believe there are two-families on Joanne Drive.

114
115 Open public hearing.

116
117 Dave Abbe (4 Cindy Drive): We have lived here for almost 24 years. The house on the other
118 side of us had an upgrade and they have an apartment that has no effect on the neighbors. We
119 will only see the three-car garage. We are selling our house this year and we don't think it will
120 have any impact. I think what they are trying to do for Derek's mom is awesome. She will have
121 no stairs, be able to maintain her independence, and will be near family.

122
123 Close public hearing.

124
125 **Criteria 1 & 2 - The variance will not be contrary to Public Interest & the Spirit of Ordi-**
126 **nance will be observed.**

127 There was a board consensus that this variance will not be contrary to public interest & the spirit
128 of ordinance will be observed.

129
130 **Criteria 3 (Substantial Justice is done)**

131 There was a board consensus that no harm will be done to the general public and substantial justice
132 is done. The applicants could not get sewer even if they wanted to.

133 **Criteria 4 (The value of surrounding properties will not be diminished)**

134 There was a board consensus that the value of surrounding properties will not be diminished.
135

136 **Criteria 5 (Literal enforcement of the provisions of the ordinance would result in an Un-**
137 **necessary Hardship)**

138 It was a board consensus that the hardship is the applicants cannot get sewer as it is not available.
139

140 *R. Bairam motion to grant the application for a variance from Article 5 Section A.2 of the*
141 *Zoning Ordinance to permit a 2 family Dwelling (Duplex) on a lot this is not served by municipi-*
142 *pal sewer for Derek Armstrong & Lisa Lowe #Z23-01, 16 Cindy Dr, Map 43 Lot 57-1*
143 *MDR. Seconded by G. Hyde. Motion carried unanimously with a vote of 5-0.*
144

145 **Derek Armstrong & Lisa Lowe #Z23-02**

146 **16 Cindy Dr, Map 43 Lot 57-1**

147 **MDR**

148 **APPLICATION FOR A VARIANCE:**

149 From **Article 5 Section C.2.b** of the Zoning Ordinance to permit: To permit a 2 family Dwelling
150 (Duplex) on a lot with only 178 feet of frontage where 200 is required.
151

152 P. Stoddard: The lot is 2.6 acres. It is 30 percent larger than required but has 10 percent less
153 frontage than is required. Zoning requirements are implemented to limit density. We think what
154 is there is significant and will not have a burden on the density in that area. There is a 20' strip of
155 land that abuts the lot on the left side that is owned by the town for access to the large town par-
156 cel out back that is mostly wetlands. If you add that 20' you have just about the 200' that is re-
157 quired. The intent of that requirement is to control density. With the town parcel he has the 200'
158 needed to control density. The hardship is the lot is larger than what is required and has 90 per-
159 cent of what is required for the frontage. He is not allowed to get a permit for a two-family with-
160 out this variance. The lot doesn't meet the strict definition of the ordinance, but it meets the in-
161 tent. He is asking for a permit that would be allowed for an ADU.
162

163 A. Stelmach: What is the line on the plan?
164

165 P. Stoddard: A drainage easement.
166

167 D. Armstrong: There is a river that comes down the side. It is dry 75 percent of the time.
168

169 P. Stoddard: There is a 25' strip of land that is owned by the town.
170

171 P. Stoddard read the criteria into the record.
172

173 Open public hearing.

174 No public comments.

175 Close public comments.

176

177 **Criteria 1 & 2 - The variance will not be contrary to Public Interest & the Spirit of Ordinance will be observed.**

178

179 There was a board consensus that this variance will not be contrary to public interest & the spirit of ordinance will be observed.

180

181

182 **Criteria 3 (Substantial Justice is done)**

183 There was a board consensus that no harm will be done to general public and substantial justice is done.

184

185 **Criteria 4 (The value of surrounding properties will not be diminished)**

186 There was a board consensus that the value of surrounding properties will not be diminished.

187

188 **Criteria 5 (Literal enforcement of the provisions of the ordinance would result in an Unnecessary Hardship)**

189

190 It was a board consensus that the following hardships exist: 1) the applicants have more than 191 199’ (they are not encroaching on a neighbor at all); 2) the 20’ of town land is what creates the 192 hardship, and the town has created their hardship (if the land is in conservation the town has to 193 allow access to it); and 3) the shape of the lot.

194

195 *A. Glennon motioned to grant the application for a variance from Article 5 Section C.2.b of 196 the Zoning Ordinance to permit: To permit a 2 family Dwelling (Duplex) on a lot with only 197 178 feet of frontage where 200 is required for Derek Armstrong & Lisa Lowe, #Z23-02, 16 198 Cindy Dr., Map 43 Lot 57-1, MDR. Seconded by R. Bairam. Motion carried unanimously 199 with a vote of 5-0.*

200

201 **NEW PUBLIC HEARING:**

202

203 **Mary V. Ecklund #Z23-05**

204 **10 Beacon Hill Rd., Map 43 Lot 46-11**

205 **MDR**

206 **APPLICATION FOR VARIANCE:**

207 From **Article 27 Section C.3** of the Zoning Ordinance to add an Accessory Dwelling Unit 208 (ADU) to an existing single-family owner-occupied home without the provision for a “means of 209 ingress and egress through a common space such as a shared hallway to an exterior door”. In- 210 stead, allowing means of ingress and egress through an unobstructed exterior door.

211 The second part of the #3, “an interior door shall be provided between unit and ADU” will be 212 provisioned, is not in question and not part of the variance request.

213

214 M. Ecklund: I would like to convert my basement into an ADU. The area is a little over 600 sq. 215 within the same footprint. There would be a shared hallway to an exterior. It would be a finished 216 basement with a walkout. I have signatures from eight of my neighbors supporting this.

217
218 T. Stewart: Is there currently a walkway to the door?
219
220 M. Ecklund: A partial walkway. I am having it finished. There are fieldstone stairs that go down
221 the side and eight feet to the entrance from the front through the mulch bed. There is a square
222 fenced yard, and it goes right to the fence.
223
224 R. Duhaime: Do you have sewer?
225
226 M. Ecklund: Yes.
227
228 A. Stelmach: You are reserving part of the basement?
229
230 M. Ecklund: The part that has the mechanical. I am using a 9x8 space. The unfinished portion
231 would be the bathroom.
232
233 T. Lacasse: What would the total square footage be?
234
235 M. Ecklund: 620' including the bathroom.
236
237 T. Lacasse: Dana, why in the zoning for ADU's do we require a shared common area?
238
239 D. Pendergast: That is a Hooksett requirement. I have denied a bunch of these because it is in
240 our ordinance. Planning creates the zoning ordinance, and the ZBA can give waivers to that ordi-
241 nance. When the state changed the ADU law the town was not in compliance with the law, so a
242 new ADU ordinance was created that included having a shared ingress/egress area. Some towns
243 are stricter, and some are less strict than us. The new ordinance was adopted in 2018.
244
245 M. Ecklund: Fourteen other towns have the "or" language.
246
247 Open public hearing.
248 No public comments.
249 Close public hearing.
250
251 M. Ecklund read the criteria into the application.
252
253 A. Stelmach: Have the other requirements of MDR been met?
254
255 D. Pendergast: Yes.
256
257 **Criteria 1 & 2 - The variance will not be contrary to Public Interest & the Spirit of Ordi-**
258 **nance will be observed.**

259 There was a board consensus that this variance will not be contrary to public interest & the spirit
260 of ordinance will be observed.
261

262 **Criteria 3 (Substantial Justice is done)**

263 There was a board consensus that no harm will be done to general public and substantial justice is
264 done.

265 **Criteria 4 (The value of surrounding properties will not be diminished)**

266 There was a board consensus that the value of surrounding properties will not be diminished, and
267 value may be added.

268
269 **Criteria 5 (Literal enforcement of the provisions of the ordinance would result in an Un-
270 necessary Hardship)**

271 It was a board majority that the following hardships exist: 1) This is a reasonable use, and the
272 ordinance is unfair that the ADU has to be attached; 2) there is no way that a common door could
273 be put in with the configuration of the house.

274
275 G. Hyde: Dana what is difference between an ADU and an in-law?
276

277 D. Pendergast: There is no such thing as an in-law anymore. The legislature in 2016 or 2017 re-
278 defined “in-law” in the state law. With an ADU you don’t have to meet the dimensions of a sec-
279 ond family. The only thing that matters in a ADU is the setback and dimensional requirements.
280 One ADU per lot is allowed in the town.

281
282 *G. Hyde motioned to grant the application for variance from Article 27 Section C.3 of the Zon-*
283 *ing Ordinance to add an Accessory Dwelling Unit (ADU) to an existing single-family owner-*
284 *occupied home without the provision for a “means of ingress and egress through a common*
285 *space such as a shared hallway to an exterior door”. Instead, allowing means of ingress and*
286 *egress through an unobstructed exterior door. The second part of the #3, “an interior door*
287 *shall be provided between unit and ADU” will be provisioned, is not in question and not part*
288 *of the variance request for Mary V. Ecklund, #Z23-05, 10 Beacon Hill Rd., Map 43 Lot 46-11,*
289 *MDR. Seconded by R. Bairam. T. Stewart no. Motion carried with a vote of 4-1.*
290

291 **REVIEW NEW APPLICATIONS FOR IMPACT TO REGIONAL PLANNING per RSA**
292 **36:56 Review Required - None**

293
294 **Additional Items for Discussion:**

295
296 **1) Attendance**

297
298 A. Stelmach: The last six months have been rough. We have not met all of the quorums. Please
299 remember to let the office know in advance if you are not able to attend a meeting.

300
301 D. Pendergast: If you miss a third of the meetings for the calendar year or four meetings in a
302 row you are subject to being removed from the board.

303
304 **2) Training**

305

306 D. Pendergast: I gave everyone the updated BAE handbooks and highlighted directions. Part of
307 the requirements of state law is yearly training. There is a test and that qualifies as training under
308 state law requirements. The annual planning and zoning conference is virtual.

309

310 **OTHER BUSINESS**

311

312 None

313

314 **ADJOURNMENT**

315

316 ***R. Bairam motioned to adjourn at 8:15 pm. Seconded by T. Stewart. Motion carried unani-***
317 ***mously with a vote of 5-0.***

318

319 The next meeting of the Zoning Board of Administration will be held May 9, 2023 at 6:30 pm.
320 Application deadline is April 19, 2023.

321

322 Respectfully submitted by:

323

324 /s/ AnnMarie Scott

325

326 AnnMarie Scott

327 Recording Clerk